

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

CLERK'S OFFICE PROCEDURAL HANDBOOK



JUNE 2003

This handbook has been prepared as a supplement to the Local Rules of the United States District Court for the Eastern District of Pennsylvania. It is intended to provide administrative information and act as a guide for specific procedural areas. However, if there is a conflict between this supplemental guide and the Local or Federal Rules of Procedure, the Rules govern.

I greatly acknowledge Marlene McHugh Anderson, Thomas Clewley, Kevin Dunleavy and Lucy Chin of my staff for their efforts in the production of this handbook.

We welcome any comments or suggestions for improving this handbook. Please forward your comments to: The Office of the Clerk of Court, United States District Court, Eastern District of Pennsylvania, 2609 United States Courthouse, Philadelphia, Pennsylvania 19106-1797 or FAX them to: (215) 597-6390.

**Michael E. Kunz
Clerk of Court**

<http://www.paed.uscourts.gov>

TABLE OF CONTENTS

I.	ELECTRONIC CASE FILING SYSTEM	1
	1. Excluded Cases and Documents	1
	2. Filing a Document in .pdf Format	2
	3. Eligibility and Registration	2
	4. Passwords	3
	5. Signature on Documents	3
	6. Training Seminars	3
II.	FILING A CIVIL ACTION	3
	A. Civil Justice Delay and Expense Reduction Plan	4
	B. Designation Form	4
	Instructions for completing the Designation Form	5
	C. Civil Cover Sheet (Form JS 44)	6
	Instructions for completing Civil Cover Sheet	6
	D. Case Management Track Designation Form	11
	E. Verifications	12
	F. Filing an Amended Complaint	12
	G. Class Action Complaints - Local Rule 23.1	12
	H. Copies of Complaints	12
	I. Service of Process	13
	J. Waiver of Service of Summons	13
III.	DOCUMENTS	13
	A. Copies	15
	B. Certificate of Service	15
	C. Third-Party Complaint	16
	D. Excluded Personal Identifiers	16
	E. Sealed Pleadings	16

	F. False Claims Act Cases	17
	G. Pleadings that are NOT Filed	17
	H. Facsimile Transmission of Notice of Orders in Civil and Criminal Cases	18
	I. Mail	19
IV.	MOTIONS	20
V.	SUMMONS	21
VI.	JURISDICTION	21
VII.	SUBPOENAS	22
	A. Civil	22
	B. Criminal	23
VIII.	FOREIGN SUBPOENAS	24
	A. Filing Procedure in Out-Of-State Court	24
	B. Service	24
	C. To Contest	24
	D. Attendance	24
IX.	DISCOVERY	25
X.	TEMPORARY RESTRAINING ORDER (T.R.O.)	25
XI.	WRIT OF GARNISHMENT, ATTACHMENT AND EXECUTION . . .	25
XII.	FILING OF JUDGMENT BY DEFAULT	26
	A. Rule 55(a), Federal Rules of Civil Procedure	26
	B. Rule 55(b), Federal Rules of Civil Procedure	26

XIII.	MULTIDISTRICT LITIGATION	26
XIV.	ARBITRATION	27
	A. Procedure For Cases Eligible For Arbitration	27
	B. Trial Procedure	28
	C. Arbitrators	28
	D. Arbitrators' Award	28
	E. Demand for Trial De Novo	29
XV.	APPEALS	29
	A. Civil	29
	B. Criminal	29
	C. Report and Recommendation of U.S. Magistrate Judge	30
	D. Bankruptcy	30
	E. Patent - "Little Tucker Act" Cases and Claims Court Transfer Cases	30
	F. Service	30
	G. Filing Fee	31
	H. Preparation of the Record on Appeal	31
XVI.	CERTIFICATION OF JUDGMENT (AO 451)	31
XVII.	REFERRAL TO UNITED STATES MAGISTRATE JUDGE	32
XVIII.	POST JUDGMENT INTEREST RATE	33
XIX.	TAXATION OF COSTS	33
	1. In General	33
	2. Burden of Proof	35
	3. Objections to Taxation of Costs	36

4.	Allowable Items of Costs	41
5.	Non-allowable Costs	48
6.	Arguments Based on Special Status of Parties	49
7.	Costs in Admiralty Cases	50
8.	Appellate Costs	50
9.	Scheduled Hearings	51
10.	Reference Sources	51
XX.	COURTROOM DEPUTY CLERKS	52
A.	New Case Procedures	52
B.	Pretrial Practices	53
C.	Scheduling Cases	53
D.	Trial List	54
E.	Judicial Schedule of Trials - Automated System Inquiry (JUST-ASK)	56
F.	Lobby Kiosk Information System	56
G.	Busy Slips	57
H.	Attachments for Trial	57
I.	Continuances - Criminal Cases	57
J.	Motions	57
K.	Exhibits	58
L.	Other Duties	58
	Listing of Courtroom Deputy Clerks	60
XXI.	STANDING ORDER RE: SENTENCING REFORM ACT OF 1984	61
XXII.	AFTER-HOURS CONTACT FOR EMERGENCY MATTERS	61
XXIII.	AFTER-HOURS FILING DEPOSITORY	62
XXIV.	OPINIONS/CORRESPONDENCE CLERK	62

XXV.	HOW TO FIND A CASE NUMBER	63
XXVI.	CLERK'S INDEX FILE BY NATURE OF SUIT	63
XXVII.	COPYWORK	63
XXVIII.	RECORDS ROOM	64
XXIX.	CREDIT CARD COLLECTION NETWORK	64
XXX.	DEPOSITING/WITHDRAWING MONIES	65
	A. Deposits	65
	B. Registry Fund, Deposit Fund, Interest-Bearing Accounts	65
XXXI.	FINES	66
XXXII.	CENTRAL VIOLATIONS BUREAU (CVB)	67
XXXIII.	BAIL BONDS	67
	A. Determination by the Court	68
XXXIV.	ATTORNEY ADMISSIONS	68
XXXV.	COURT REPORTING/RECORDING SERVICES	69
XXXVI.	VIDEOTAPE SERVICES	69
XXXVII.	VIDEO TELECONFERENCING	69
XXXVIII.	COURTROOMS OF THE FUTURE	70

XXXIX.	INTERPRETERS' SERVICES	70
XL.	JURY SELECTION	71
	A. Term of Jury Service	71
	B. Excuse from Jury Service on Request	71
	C. Payment	72
XLI.	INCLEMENT WEATHER	72
XLII.	PACER - PUBLIC ACCESS TO COURT ELECTRONIC RECORDS	72
XLIII.	INTERNET WEBSITE	74
XLIV.	LOCAL RULES	75
XLV.	CELL PHONES AND PUBLIC TELEPHONE LOCATIONS	75
	PERSONNEL DIRECTORY	78
	LIST OF APPENDICES	85
	I N D E X	I

I. ELECTRONIC CASE FILING SYSTEM

The United States District Court for the Eastern District of Pennsylvania utilizes an automated civil docketing system, Case Management/Electronic Case Filing (CM/ECF).

Effective May 27, 2003, dockets for all civil cases filed since July 1, 1990 and dockets for all criminal cases filed since July 1, 1992 will be available for viewing and printing from the CM/ECF system.

All new civil cases filed in this court are entered into this court's Electronic Case Filing (ECF) system in accordance with the Procedural Order on Electronic Case Filing (**Appendix A**). CM/ECF provides a new, easy-to-use electronic case filing feature that will allow users to file and view court documents over the Internet. Documents are automatically docketed as part of the filing process and are immediately available electronically. CM/ECF also offers the following benefits:

- 24-hour access to filed documents over the Internet;
 - automatic e-mail notice of case activity to attorneys of record and judges;
 - ability to download and print documents directly from the court system;
 - concurrent access to case files by multiple parties;
 - secure storage of documents.
1. **Excluded Cases and Documents.** A list of types of documents and categories of cases, which are presently excluded from the provisions of this Procedural Order, as may be amended from time to time, is attached hereto and made a part of this Procedural Order (**Appendix A, Attachment A**).
 2. **Filing a Document in .pdf Format.** The ECF system accepts documents in a portable document format (.pdf). .pdf retains the way a document looks, so the pages, fonts and other formatting are preserved. For information on .pdf files, see **Appendix B**.

In April 2003, Rule 5.1.4 of the Local Rules of Civil Procedure, Format of Documents in Electronic Form, was adopted (**Appendix C**). Attorneys who are not filing documents electronically, as defined in the Procedural Order on Electronic Case Filing (**Appendix A**) referenced in Rule 5.1.2 of the Local Rules of Civil Procedure, are required to submit complaints and all subsequent filings in traditional manner on paper, accompanied by copies of the filings on disk in portable disk format (.pdf) at the time of filing so that the filings may be entered into the District Court's ECF system; for convenience of attorneys who do not have access to compatible hardware or software, a computer with .pdf conversion capability is available in the Clerk's Offices at Philadelphia and Allentown, with assistance for .pdf conversion provided by Clerk's Office staff as needed; attorneys who have reason for not providing this material on disk are required to notice the Clerk's Office in writing attached to the document, explaining the reason for not providing this material on disk.

Attorneys who do not register to participate in the ECF program are requested to register and participate in the court's Program for Facsimile Service of Notice to Counsel or Litigants in Civil and Criminal Cases (the "Fax Noticing Program"). See Facsimile Transmission of Notice of Orders in Civil and Criminal Cases.

3. **Eligibility and Registration.** Attorneys admitted to the bar of this court, including those admitted *pro hac vice*, may register as ECF Filing Users of this court's ECF system. Registration is in a form prescribed by the clerk of court (**Appendix D**) and requires a declaration that the attorney is admitted to the bar of this court and is a member of good standing.

Upon approval of the judge, a party to a case who is not represented by an attorney may register as an ECF Filing User in the ECF system solely for purposes of the action. If, during the course of the case, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk of court to terminate the party's registration as a Filing User upon the attorney's appearance.

4. **Passwords.** Once registration is completed, the ECF Filing User will receive notification of the user login and password. For security reasons, the court recommends that ECF Filing Users periodically change their passwords, by notifying the clerk of court who will effect the change.

5. **Signature on Documents.** Using your login and password to file a document is considered to be your signature (**Appendix A, Section 8**).
6. **Training Seminars.** ECF training is available to members of the bar, paralegals, secretaries and automation support staff. For information regarding participation in the court's CM/ECF system, see **Appendix E**.

II. **FILING A CIVIL ACTION**

The filing of **all** initial papers in civil cases, such as the complaint and the issuance and service of the summons, will be accomplished by hard copy filed in the traditional manner on paper rather than electronically. Parties must concurrently provide the clerk of court with a computer disk, in portable document format (.pdf), containing a copy of all documents provided in paper form at the time of filing.

All new civil actions are to be filed on 8½" x 11" paper in the Clerk's Office, Room 2609, second floor of the Federal Courthouse, or in the divisional office in Allentown, Pennsylvania between the hours of 8:30 a.m. and 5:00 p.m. Filings are accepted by mail, as well as in person. The addresses are:

United States District Court
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797
(215) 597-7704

United States District Court
U.S. Courthouse and Federal Building
504 West Hamilton Street, Suite 1601
Allentown, PA 18101-1500
(610) 434-3896

The cost for filing a civil action is \$150.00. Payment may be made in three forms: cash, credit card, or checks made payable to "Clerk, U.S. District Court".

All subsequent filings, motions, pleadings and other papers are to be filed electronically, by mail or in person in Room 2609 at the courthouse in Philadelphia or Suite 1601 at the divisional office in Allentown.

Counsel should include the following in the drafting of the complaint or petition: (a) name of court; (b) name and address of both parties, in caption form; (c) title of action; (d) a short and plain statement of the grounds upon which the court's jurisdiction depends; (e) a short and plain statement of the claim showing that the pleader is entitled to relief; (f) a demand for judgment for the relief to which the plaintiff deems himself entitled; (g) jury demand; and (h) name, address, Pennsylvania attorney identification number and signature of plaintiff's attorney.

A. Civil Justice Expense and Delay Reduction Plan

In response to a mandate by the Civil Justice Reform Act of 1990 and in an effort to reduce the cost and delay of civil litigation in the federal courts, this district adopted The Civil Justice Expense and Delay Reduction Plan with an effective date of December 31, 1991. A copy of the plan can be obtained by contacting Aida Ayala at 267-299-7099. This district was selected as a pilot district and was required to implement a plan by December 31, 1991. An Advisory Group was appointed in April 1991 to prepare a report and recommendation on the status of the Eastern District of Pennsylvania. Based on this report, the judges adopted the expense and delay reduction plan.

B. Designation Form

The designation form is to be used by counsel to designate the category of the cause of action for the purpose of assignment to the appropriate calendar (**Appendix F**). It is to be completed by plaintiff's counsel and submitted at the time of filing.

The court requires two (2) copies of the designation form. Additional forms are not required for additional defendants, nor are additional forms required when the United States Government or an officer or agency thereof is involved.

Instructions for Completing the Designation Form

1. **Address of Plaintiff and Defendant.** House or apartment address, street, city, county and zip code are required in this section.

2. **Place of Accident.** The place of the accident, incident, or transaction; house or apartment address, street, city, county and zip code are required in this section. Note: Counsel should continue on reverse side if additional space is needed to fully explain this matter.
3. **Disclosure Statement.** In accordance with Federal Rule of Civil Procedure 7.1(a), *Disclosure Statement*, a nongovernmental corporate party to an action or proceeding in a district court must file copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation (**Appendix G**).

A party must file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and promptly file a supplemental statement upon any change in the information that the statement requires.

4. **Related Cases.** This refers to pending cases or cases disposed of in the United States District Court for the Eastern District of Pennsylvania within *a one-year period*.

If the case is related, counsel must indicate the case number, the presiding judge, and the date terminated.

5. **Civil Category Checklist.** Counsel are required to determine whether the action arises under: (a) federal question, Title 28 U.S.C. § 1331; or (b) diversity, Title 28 U.S.C. § 1332. Counsel must check off the one specific category within the appropriate classification to which that case pertains. This is for the purpose of proper case assignment by classification.
6. **Arbitration Certification.** The arbitration certification is used to determine whether or not the case exceeds the damages threshold of \$150,000, which is the maximum amount for any arbitration proceeding. Counsel are advised to refer to Local Civil Rule 53.2, Section 3, Paragraph C, which states that damages will be presumed to be less than \$150,000 and thus eligible for arbitration unless counsel, at the time of filing, states that the damages exceed that amount. The effect of this certification is to remove the case from eligibility for arbitration. Date and

signature must be included in this section.

7. **Date and Signature.** The date of filing and signature of counsel is required in this section.

C. Civil Cover Sheet (Form JS 44)

The Civil Cover Sheet is required by the Clerk of Court for the purpose of initiating the civil docket sheet. It is completed by plaintiff's counsel and submitted at the time of filing (**Appendix H**). Only one civil cover sheet is required by the court to accompany the complaint, regardless of whether or not the United States of America, or an officer of an agency thereof, is a party.

Instructions for Completing Civil Cover Sheet

1. **Parties.** The complete name(s) and address(es) of plaintiff(s) and defendant(s) are required in this section.

2. **Attorneys.**

Plaintiff's Attorney: Firm name, address, Pennsylvania bar identification number and telephone number is required.

Defendant's Attorney: Firm name, address, Pennsylvania bar identification number and telephone number, if known.

3. **Jurisdiction.** Counsel should place an "X" in the appropriate box corresponding to the jurisdictional basis of the action.

The following order of priority should be utilized in cases where more than one basis of jurisdiction is set out in the complaint.

(a) United States Plaintiff. Jurisdiction is based on 28 U.S.C. §§ 1345 and 1348. Suits by agencies and officers of the United States are in this category.

(b) United States Defendant. Jurisdiction is based on 28 U.S.C. § 1346 and includes suits against agencies and officers of the United States.

(c) Federal Question. Various statutes give the district court jurisdiction to hear and determine controversies where federal rights between parties are covered by statute or Constitution.

(d) Diversity of Citizenship. This refers to suits under 28 U.S.C. § 1332. In this situation, parties are residents of different states.

Note: If diversity is checked, it must be further categorized in the box at the lower left-hand portion of the sheet.

4. **Cause of Action**. In this section, a citation must be used for the U.S. civil statute under which the filing is made. In addition, a brief statement of the cause of action must also be included by counsel.

5. **Nature of Suit**. Counsel must indicate the general description of the suit by placing an "X" in the appropriate box. If more than one possible category applies, select the most explicit and specific classification.

Note: Only one check mark is to be made in this area.

Explanatory information for social security. In the section for Social Security, six possible types of claims or actions are listed.

Suit Code Number	Abbreviation for Cause of Action	Substantive Statement Explaining Type
861	HIA	All claims for health insurance benefits (Medicare) under Title XVIII, Part A, of the Social Security Act, as amended. Also includes claims by hospitals, skilled nursing facilities, etc. for certification as providers of services under the program. (42 U.S.C. § 395f(b)).
862	BL	All claims for "black lung" benefits under Title IV, Part B, of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 923).
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title II of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability (42 U.S.C. § 405(g)).
863	DIWW	All claims filed for widows' or widowers' insurance benefits based on disability under Title XVI of the Social Security Act, as amended (42 U.S.C. § 405(g)).
864	SSID	All claims for supplemental security income payments based upon disability filed under Title XVI of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors' benefits under Title II of the Social Security Act, as amended. (42 U.S.C. § 405(g)).

6. **Origin.** Counsel are required to indicate which one of the seven possible categories is applicable to the case being filed. The following explanatory guidelines should be consulted in this matter.

- (a) Original Proceedings - This category will be the appropriate one for most cases.
- (b) Removed from State Court - Proceedings initiated in the State Courts may be removed to the District Court under Title 28 U.S.C. § 1441.

- (c) Remanded from Appellate Court - Use the date of remand as the filing date.
 - (d) Reinstated or Reopened - Use the reopening date as the filing date.
 - (e) Transferred from Another District - Self-explanatory.
 - (f) Multidistrict Litigation - Use when a multidistrict case is transferred into this district (Title 28 U.S.C. § 1407).
 - (g) Appeal to District Judge from Magistrate Judge - Self-explanatory.
7. **Class Action.** This item should be checked if the case is alleged to be a class action under Fed. R. Civ. P. 23.

Demand: The dollar amount which is sought in the case should be inserted in this space.

Jury Demand: Counsel should check "yes" in this section only if a jury trial is demanded in the complaint.

8. **Related Case(s), if any.** This section is used to reference related pending cases, if any. If there are related pending cases or cases disposed of within a one-year period, insert the docket numbers and the corresponding judges' names for such cases.
9. **Date and Signature.** The date of filing and the signature should be the final insertion on the civil cover sheet.

D. Case Management Track Designation Form

Each civil case will be assigned to one of the following tracks (**Appendix I**):

1. **Habeas Corpus** - Cases brought under 28 U.S.C. § 2241 through § 2255.
2. **Social Security** - Cases requesting review of a decision of the Secretary of Health and Human Services denying the plaintiff Social Security benefits.
3. **Arbitration** - Cases designated for arbitration under Local Civil Rule 53.2.
4. **Asbestos** - Cases involving claims for personal injury or property damage from exposure to asbestos.
5. **Special Management** - Cases that do not fall into tracks 1 through 4 or that need special or intense management by the court due to one or more of the following factors:
 - (a) large number of parties;
 - (b) large number of claims;
 - (c) complex factual issues;
 - (d) large volume of evidence;
 - (e) problems locating or preserving evidence;
 - (f) extensive discovery;
 - (g) exceptionally long time needed to prepare for disposition;
 - (h) decision needed within an exceptionally short time;
 - (i) need to decide preliminary issues before final disposition.
6. **Standard Management** - Cases that do not fall into any of the other tracks.

E. Verifications

Verifications or affidavits are not required to be filed with a complaint, except: (a) where the complaint seeks entry of a temporary restraining order (Federal Rule of Civil Procedure 65(b)); and (b) in shareholder derivative actions (Federal Rule of Civil Procedure 23.1). In lieu of a verification or an affidavit, it is appropriate to submit an unsworn declaration in the form set forth in 28 U.S.C. § 1746.

F. Filing an Amended Complaint

A party may amend the complaint once, as a matter of course, at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, a party may amend the complaint any time within 20 days after it is served, otherwise, a party may amend the pleading only by leave of court or by written consent of the adverse party.

G. Class Action Complaints - Local Rule 23.1

Class action complaints must bear next to their caption the legend, "Complaint - Class Action". In addition, they must set forth certain "Class Action Allegations" which are described in Local Civil Rule 23.1.

H. Copies of Complaints

It is not necessary to deliver multiple copies of the complaint and amended complaint to the Clerk's Office to be served on the defendants. It is only necessary to deliver an original complaint or an original amended complaint for filing. The Clerk's Office will process all completed summonses and return them to counsel for service on the opposing party.

I. Service of Process

Defendants have 20 days after the service of the summons and complaint to file an answer to the complaint unless otherwise ordered by the court.

The U.S. Attorney has 60 days after service to file an answer to the complaint in actions against the United States of America, an officer or agency thereof.

J. Waiver of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving cost of the service of the summons and complaint. A defendant who, after being notified of an action and asked to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause is shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is

unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented party) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against the defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

If you need additional information on filing complaints contact Mary Chase, Operations Manager, at 267-299-7012.

III. **DOCUMENTS**

All paper pleadings are to be filed on 8½" x 11" paper by mail, or in person in the Clerk's Office, Room 2609, in Philadelphia or in Suite 1601 of the divisional office in Allentown. The original docket sheets, record files, and indices to all cases are available for inspection. The civil dockets are divided among ten clerks and the last digit of each case number determines the docket clerk to whom the case is assigned for processing.

The following personnel perform case processing duties in the civil section:

(#1) Patricia Horning	267-299-7001
(#2) Christine Demniansky	267-299-7002
(#3) James Deitz	267-299-7003
(#4) Ronald Vance	267-299-7004
(#5) Kimberly Williams	267-299-7005
(#6) Michele Helmer	267-299-7006
(#7) Joseph Lavin	267-299-7007
(#8) Gayle Norman	267-299-7008
(#9) Ann Murphy	267-299-7009
(#10) Frank DelCampo	267-299-7010

At the divisional office in Allentown, Pennsylvania, contact Evelyn Renner at (610) 434-3896.

Criminal case processing is divided among clerks - Dennis Taylor, 267-299-7160, James Hamilton, 267-299-7024, and Carlos Cardona, 267-299-7023. Anne Rea, 267-299-7022, reviews overall compliance with the Speedy Trial Act. The Magistrate Judges' Docket Clerk is Jimmy Cruz, 267-299-7145.

Rule 11 of the Federal Rules of Civil Procedure requires that every pleading, motion and other paper of a party represented by an attorney be signed by the attorney. Please be sure to date the pleadings, attach a certificate of service, and include the address and phone number of counsel. It is not necessary to send a cover letter when filing routine pleadings. However, if you are filing a pleading which requires special attention please include a cover letter.

The user log-in and password required to submit documents to the ECF system serve as the ECF Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Rule 11(a) of the Federal Rules of Civil Procedure, the Local Rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Each document filed electronically must, if possible, indicate that it has been electronically filed. Electronically filed documents must include a signature block and must set forth the name, address, telephone number and the attorney's state bar identification number, if applicable. In addition, the name of the ECF Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (4) any other manner approved by the court.

A. Copies of Paper Documents

For filing paper documents, an original of all motions, memoranda and briefs is needed. We suggest you do not combine pleadings but file a separate pleading for each action in which a resolution is sought. When filing individual pleadings, it is easier and more efficient for the judge to have the option to sign an order ruling on the individual pleading rather than have to prepare an order.

It is important that pleadings be assembled with all documents in support thereof attached in

sets. This ensures proper filing and also enables the judge to have complete sets. In order to assist the Clerk's Office, we request that you punch holes and insert fasteners at the top of these sets. Note: The Clerk's Office does not date-stamp copies of pleadings unless accompanied by self-addressed, stamped envelopes.

B. Certificate of Service

When filing pleadings, it is necessary to attach a certificate of service indicating the names of all counsel and/or parties you have served.

When an ECF Filing User electronically files a pleading or other document using the ECF system, a Notice of Electronic Case Filing shall automatically be generated by the system, and shall be sent automatically to all parties entitled to service under the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of the Eastern District of Pennsylvania who have consented to electronic service. Electronic service of the Notice of Electronic Case Filing constitutes service of the filed document to all such parties and shall be deemed to satisfy the requirements of Rule 5(b)(2)(D) of the Federal Rules of Civil Procedure and Rule 49 of the Federal Rules of Criminal Procedure.

All documents filed using the ECF system shall contain a Certificate of Service stating that the document has been filed electronically and is available for viewing and downloading from the ECF system. The Certificate of Service must identify the manner in which service on each party was accomplished, including any party who has not consented to electronic service.

C. Third-Party Complaint

Leave of court is not necessary to file a third-party complaint if it is filed by the defendant within 10 days after service of the original answer to the complaint. However, leave of court is necessary if the defendant files the third-party complaint after the expiration of 10 days of the filing of the answer. Counsel must file a Motion for Leave to File a Third-Party Complaint, together with a memorandum, proposed order and the proposed third-party complaint. When the judge signs the order, the clerk will process the complaint. (See Rule 14, Federal Rules of Civil Procedure.)

D. Excluded Personal Identifiers

As documents in civil cases may be available for personal inspection in the office of the clerk at the United States Courthouse, or, if filed electronically, may be made available on the court's

Electronic Case Filing system, such personal identifiers as Social Security numbers, dates of birth, financial account numbers and names of minor children should be modified or partially redacted in all documents filed either in traditional paper form or electronically (**Appendix J**).

E. Sealed Pleadings

Sealed cases and documents ordered to be placed under seal are excluded from the provisions of the ECF Procedural Order (**Appendix A, Attachment A**) and must be filed in paper format filed in the traditional manner and not electronically. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk of court. Include a cover letter identifying the contents of the envelope and information pertaining to the sealing of the document and/or case. The envelope containing the sealed pleading should reflect the caption and case number and should also identify the type of pleading contained in the envelope. If a document is being filed and sealed pursuant to a protective order or other order, refer to the sealed document in your cover letter. Please include the word "SEALED" near the top margin of the letter to alert the person opening the mail to exercise caution in processing the envelope.

F. False Claims Act Cases

All False Claims Act cases are opened by the docket clerk and filed **under seal** and placed on a paper docket. The Complaint is docketed and no summons is issued. The Complaint is impounded and sent to the assigned Judge.

The Government may file a number of motions for an extension of the seal on the False Claims Act cases. If the Government files a Notice of Election to Decline Intervention or Election to Intervene, it is docketed and forwarded to the Court. If there is a complaint or an amended complaint attached to the notice, it is also docketed and forwarded to the Court. A summons is never issued unless directed by the court.

Only upon Court order is the complaint unsealed. At this point, the court will issue an order directing the Clerk's Office and the U.S. Attorney's Office how to proceed.

G. Pleadings that are NOT Filed

The following pleadings are not filed pursuant to Local Civil Rule 26.1 - Discovery:

- Requests for Production of Documents;
- Requests for Admissions;
- Interrogatories;
- Answers to Interrogatories;
- Notices of Deposition;
- Depositions.

H. Facsimile Transmission of Notice of Orders in Civil and Criminal Cases

Attorneys who do not register to participate in the ECF program are requested to register and participate in the court's Program for Facsimile Service of Notice to Counsel or Litigants in Civil and Criminal Cases (the "Fax Noticing Program"). This program allows attorneys and pro se litigants to waive the provisions of Federal Rule of Civil Procedure 77(d) or Federal Rule of Criminal Procedure 49(c), which requires service of Notice of Orders and Judgments by means of mail, and instead consent to receive Notice of Orders and Judgments by means of facsimile transmission.

Forms of Consent to Receive Notice of Orders and Judgments by means of Facsimile Transmission and Waiver of the Provisions of Fed.R.Civ.P. 77(d) or Fed.R.Crim.P. 49(c) Providing for said Notice by means of Mail are available through the Clerk's Office (**Appendix K**). Execution of the Facsimile Transmission Authorization form authorizes the Clerk of Court to serve notice of the entry of Orders or Judgments pursuant to Fed.R.Civ.P. 77(d) or Fed.R.Crim.P. 49(c) by facsimile in lieu of notice by means of mail. The Facsimile Transmission Authorization form also serves as Notice to and Authorization for the Clerk of Court to keep your name and the relevant information on file so that the Facsimile Transmission Authorization form will apply to all pending and future civil and criminal cases in which the attorney or pro se litigant is, or will be, either counsel or a party to litigation.

The waiver of the provisions providing for notice of the entry of Orders or Judgments by mail will include all pending civil and criminal cases in the Eastern District of Pennsylvania for the pro se litigant and all pending civil and criminal cases in the Eastern District of Pennsylvania in which the attorney either represents a party or is a party to the litigation, except for grand jury proceedings and impounded cases.

The Clerk of Court will make three attempts to transmit the Notice of Entry of Orders and

Judgments by means of Facsimile. If after three attempts facsimile transmission is unsuccessful, Notice shall be made by means of mail pursuant to Fed.R.Civ.P. 77(d) or Fed.R.Crim.P. 49(c).

I. Mail

The court in its ongoing commitment to provide more timely notice and enhance the level of service to members of the bar, litigants and the public, has joined efforts with the U.S. Postal Service to implement procedures to streamline and facilitate the delivery and processing of mail directed to and from the U.S. Courthouse.

Mail Sent to Counsel

In order to expedite delivery of notices from judicial officers and the clerk of court, members of the bar are requested to furnish the following information by completing an Information Form (**Appendix L**): Name; Bar I.D. number; Firm, Address; City; State; **Zip Code and 4-digit extension number** and Facsimile number. Please return the completed form to the clerk of court at:

Michael E. Kunz, Clerk of Court
United States District Court
for the Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

or, by facsimile to: (215) 597-6390, (267) 299-7135 or (610) 434-6174.

Mail Sent to the Court

In order to take full advantage of these procedures, all mail sent to the United States District Court for the Eastern District of Pennsylvania at 601 Market Street, Philadelphia, PA and divisional office locations should include both the **zip code and 4-digit extension number**. Accordingly, all mail submitted to a judicial officer should be addressed as follows:

Name of Judicial Officer	Michael E. Kunz, Clerk of Court
United States District Court	United States District Court
for the Eastern District of Pennsylvania	for the Eastern District of Pennsylvania

U.S. Courthouse
601 Market Street, Room # ____
Philadelphia, PA 19106-____

U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

The use of bar coding technology currently available in word processing software packages in addressing envelopes is encouraged. A listing of the room numbers and Zip Code and 4-digit extension numbers of the judicial officers is available in the Clerk's Office (**Appendix M**).

IV. **MOTIONS**

An application to the court for an order (unless made during a hearing or trial) shall be made in writing stating with particularity the grounds therefor, and shall set forth the relief sought. (See Federal Rule of Civil Procedure 7(b)(1) and Local Civil Rule 7.1(a).)

All motions shall contain a caption setting forth the name of the court, the title of the action, the file number, and a designation. (See Federal Rule of Civil Procedure 10(a).)

Every motion not certified as uncontested must be accompanied by a brief containing a concise statement of the legal contentions and authorities relied upon in support of the motion. Every motion shall be accompanied by a form of order which, if approved by the court, would grant the relief sought by the motion. Uncontested motions must be accompanied by a written statement as to the date and manner of service of the motion and supporting brief.

Every motion and proposed order of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign each motion and proposed order and state their correct address as indicated. (See Federal Rule of Civil Procedure 7(b)(3).)

A brief in opposition to the motion, together with such answer or other response as may be appropriate, is required if the served party opposes the motion.

The response to the motion must be made within 14 days after service of the motion and supporting brief. (See Local Civil Rule 7.1(c).)

V. **SUMMONS**

Summonses shall be prepared by counsel (**Appendix N**). At the time of the filing of a complaint, all summonses shall be submitted to the Clerk of Court's office for signature and seal. Each defendant's name as it appears on the complaint (without its addresses) is to be typed on a separate summons and submitted to the deputy clerk. The original and sufficient copies for each defendant will be returned to counsel. To issue a second summons, file a Praecipe to Issue Alias Summons, naming the defendants.

VI. JURISDICTION

The Eastern District of Pennsylvania includes the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, and Philadelphia. Please take note that effective April 19, 1999, jurisdiction of the county of Schuylkill was transferred to the U.S.D.C. Middle District of Pennsylvania.

Court for the Eastern District is held at Philadelphia, Reading, Allentown and Easton. When it appears from the designation form filed by counsel, or from the complaint, petition, motion, answer, response, indictment, information or other pleading in a civil or criminal case, that a plaintiff or defendant resides in or that the accident, incident, or transaction occurred in the counties of Berks, Lancaster, Lehigh, or Northampton, said case shall be assigned or reassigned for trial and pretrial procedures to a judge stationed in Reading, Allentown or Easton.

All other cases, unless otherwise directed by the court, shall be tried in Philadelphia, and as each case is filed, assigned to a judge, who shall thereafter have charge of the case for all purposes. (See Local Civil Rule 40.1)

The Office of the Clerk of Court maintains two Clerk's Offices and accepts all filings in Philadelphia and Allentown, Pennsylvania at the following addresses:

United States District Court
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797
(215) 597-7704

and

United States District Court
U.S. Courthouse and Federal Building
504 West Hamilton Street, Suite 1601
Allentown, PA 18101-1500
(610) 434-3896

VII. SUBPOENAS - (Rule 45, Federal Rules of Civil Procedure as amended December, 1991 and Rule 17, Federal Rules of Criminal Procedure)

A. Civil

Under Rule 45 of the Federal Rules of Civil Procedure, attorneys are authorized to issue subpoenas in the name of any court in which they are authorized to practice, and in the case of a deposition or a production of documents taking place in another district, in the name of the court where the deposition or the production is to take place. Attorneys issuing subpoenas must comply with the appropriate Federal Rules and with Local Rules.

Although it is no longer necessary that subpoenas be issued by the Clerk, the Clerk still has the authority to do so. In those instances in which counsel elects to have the Clerk of Court issue the subpoena, an original and one copy is needed for each witness to be served. The requirement that a subpoena be issued under seal has been abolished. For a foreign deposition (deposition being taken in a state other than Pennsylvania), subpoenas are issued in blank by the Clerk's office, completed and served by counsel. They are not signed by the court where the original notice to take the deposition is filed.

All subpoenas may be served by a person who is not a party and is not less than 18 years of age. There is no provision in the rules for subpoenas to be served by mail.

Pursuant to F.R.C.P. 45 (b) (2), a subpoena may be served anywhere within the district. However, subpoenas may only be served outside the district if they are within 100 miles of the place designated in the subpoena for the deposition, trial, production of documents, hearing, or inspection. The federal rules also permit the service of a subpoena that is outside of the district but within the state if certain conditions are met. See, F.R.C.P. 45(b)(2). All subpoenas must be accompanied by a check made payable to the witness for the witness fee (\$40 per day) and mileage (36 cents per mile, round trip).

A copy of the subpoena is left with the witness and the original subpoena is returned to

counsel.

B. Criminal

Under Rule 17 of the Federal Rules of Criminal Procedure, the Clerk of Court or the Magistrate Judge hearing the matter shall issue subpoenas. An original and one copy is needed for each witness to be served. All subpoenas issued by the Clerk are: 1) completed by counsel; 2) signed by the Clerk of Court; and 3) have the seal of the court over the name of the Clerk of Court before being served on the witness.

All subpoenas may be served by a person who is not a party and is not less than 18 years of age. There is no provision in the rules for subpoenas to be served by mail.

All subpoenas must be accompanied by a check made payable to the witness for the witness fee (\$40.00 per day) and mileage (36 cents per mile, round trip) unless the subpoena was issued on behalf of the United States or the court has determined upon an *ex parte* motion that the defendant is financially unable to pay.

A criminal subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the United States. Subpoenas which are directed at witnesses in a foreign country shall be issued in accordance with 28 U.S.C. § 1783.

For more detailed information on criminal subpoenas, refer to Federal Rule of Criminal Procedure 17.

VIII. FOREIGN SUBPOENAS (Rule 45, Federal Rules of Civil Procedure)

A foreign subpoena is one issued out of a court other than where the original case is pending. For example, a case is pending in California but counsel would like to take the deposition of someone in the Eastern District of Pennsylvania.

A. Filing Procedure in Out-Of-State Court

Counsel should complete the subpoena forms, attach a check for the witness fee and mileage in the sum of \$40.00 per day, plus 36 cents per mile, round trip, and send them, together with the stamped copy of the notice to take the deposition, to the United States District Court nearest where the deponent resides. The referred court where the deposition shall issue will stamp the name of the

clerk, have the form signed by a deputy and affix the seal of its court over the signature.

B. Service

Service of the deposition subpoena must be by process server. There is no provision for service by mail. The copy of the subpoena is left with the witness, together with the witness fee. The original is returned to counsel. Counsel should make arrangements with a special process server for serving the subpoena.

C. To Contest

To contest a foreign (deposition) subpoena, file a motion to quash the deposition subpoena in the district where the subpoena was issued. File an original motion with the court. The case is filed as a miscellaneous case, with an associated filing fee of \$30.00.

D. Attendance

A person to whom a civil subpoena for the taking of a deposition is directed may be required to attend at any place within 100 miles from the place where the person resides, is employed or transacts business in person, is served, or at such other convenient place as is fixed by an order of court.

IX. DISCOVERY

In accordance with Local Civil Rule 26.1, discovery material is not filed with the court. The party serving the discovery material or taking the deposition shall retain the original and be the custodian of it. Every motion governing discovery shall identify and set forth, verbatim, the relevant parts of the interrogatory, request, answer, response, objection, notice, subpoena or deposition. Any party responding to the motion shall set forth, verbatim, in that party's memorandum any other part that the party believes necessary to the court's consideration of the motion.

X. TEMPORARY RESTRAINING ORDER (T.R.O.)

The assigned judge will set a time (usually the same day you file the T.R.O.) to meet with you and opposing counsel, if any. File the case in the Clerk's Office and give the clerk sufficient time to assemble the case for the judge and prepare the docket. If the judge grants the temporary restraining

order, it is the responsibility of counsel for plaintiff to make service of the T.R.O. on the defendants.

We suggest you call Mary Chase, the Operations Manager, at 267-299-7012 with any questions.

XI. WRITS OF GARNISHMENT, ATTACHMENT AND EXECUTION

Writs of Garnishment and Attachment are prepared by counsel, filed with the Clerk's Office for processing and served by the U.S. Marshal. Counsel is responsible for Notice to opposing counsel. Notice must be given to all Owners of the Property (**Appendix O**).

You must wait 10 days before you can execute on a judgment, unless a Motion to Vacate, Motion to Stay, Motion for Reconsideration, or Motion for a New Trial is pending. If counsel requests, we will process the Praecipe for a Writ of Garnishment or Execution immediately, referring the matter to the assigned judge, if available, or to the judge's chambers for guidance (See, Rule 62, Federal Rules of Civil Procedure).

XII. FILING OF JUDGMENT BY DEFAULT

A. Rule 55(a), Federal Rules of Civil Procedure

You must file a request with the Clerk for the entry of a default for want of answer or other defense. Set forth the following information: (1) defendant was properly served on a particular date; (2) the time for defendant to file an answer to the complaint has expired; (3) that as of the date of the filing of the request for entry of the default, no answer (or motion to dismiss or motion for summary judgment) has been filed; (4) instruct the Clerk to enter a default against the defendant (name the defendant if more than one in a case) for want of answer or other defense.

If the defendant is an individual, be sure that the defendant was served a copy of the complaint by either special process server, or waiver of service provisions of the Federal Rules of Civil Procedure Rule 4(d) or otherwise in accordance with Federal Rules of Civil Procedure Rule 4.

B. Rule 55(b), Federal Rules of Civil Procedure

To file a request for judgment by default for an individual, file an affidavit indicating the individual is (1) not an infant; (2) not incompetent; (3) not in the military; (4) amount due and owing;

and (5) form of judgment.

To file a request for judgment by default for a corporation, file only an affidavit of amount due. If the amount asked for in the complaint differs from that asked for in the proposed judgment, the affidavit of amount due should explain the discrepancy.

XIII. MULTIDISTRICT LITIGATION

Due to the volume of litigation and the complexity of procedural requirements, those cases that are classified as being multidistrict litigation are governed by a separate and unique set of procedural rules. These rules are contained in the Procedural Manual for Multidistrict Litigation. Counsel may review this manual in the Clerk's Office, Room 2609, or may purchase copies from the Multidistrict Litigation Panel in Washington, D.C. Specific requests for information and related inquiries should be directed to Michael J. Beck, Clerk of the Panel, Multidistrict Litigation Panel, One Columbus Circle, N.E., Suite G-255, North Lobby, Washington, D.C. 20002-8004 or at (202) 502-2800.

In multidistrict litigation matters, local rules are applicable. Particularly, counsel's attention is directed to the fact that Local Rule 83.5.2, Associate Counsel, is waived in order to allow counsel from other districts to participate in these cases.

The deputy clerks with general responsibility for local involvement in multidistrict litigation matters are Sharon Carter (267-299-7019) and Nicole Picariello (267-299-7017).

On July 29, 1991, the Judicial Panel on Multidistrict Litigation entered an opinion and order transferring all asbestos cases that were not on trial and were pending outside the Eastern District of Pennsylvania to this Court and assigning them to the Honorable Charles R. Weiner for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, MDL - 875, In Re: Asbestos Product Liability Litigation. The deputy clerk with general responsibility is Nicole Picariello (267-299-7017).

XIV. ARBITRATION

Our arbitration program provides litigants with a more prompt and less expensive alternative to the traditional courtroom trial. It has been in operation since 1978 and includes all civil cases (except social security cases, cases in which a prisoner is a party, cases alleging a violation of a

constitutional right and cases where jurisdiction is based on 28 U.S.C. § 1343) where money damages only are sought in an amount not exceeding \$150,000. Counsel are advised to refer to Local Civil Rule 53.2 for the specific types and categories of cases that are considered to be eligible for arbitration.

A. Procedure for Cases Eligible for Arbitration

When a complaint is filed, our local civil rule provides that damages are presumed to be not in excess of \$150,000 unless counsel certifies that the damages exceed that amount. Immediately after the answer is filed, the attorneys receive a letter from the Clerk's Office advising them of the date for the arbitration hearing and also notifying them that discovery must be completed within 90 days. The clerk schedules the arbitration hearing for a specific day, usually a date about four months after an answer has been filed. In the event a party files a motion for judgment on the pleadings, summary judgment, or similar relief, our local rule provides that the case may not be heard until the court has ruled on the motion. However, the filing of a motion after the judge designates the arbitrators who will hear the case (usually about 30 days prior to the arbitration hearing) shall not stay the arbitration unless the judge so orders.

B. Trial Procedure

Although the Federal Rules of Evidence are designated as guides for the admissibility of evidence at the arbitration hearing, copies or photographs of exhibits must be marked for identification and delivered to the adverse party at least ten days prior to arbitration. The arbitrators shall receive such exhibits in evidence without formal proof, unless counsel has been notified at least five days prior to the hearing that their opponent intends to raise an issue concerning the authenticity of the exhibit. The arbitration hearing is not recorded unless a party at their own expense arranges for a recording. The arbitrators are authorized to change the date of the arbitration hearing, provided it takes place within 30 days of the date originally scheduled.

C. Arbitrators

We currently have 1553 lawyers certified as arbitrators. In order to qualify for certification, the lawyer must be admitted to practice before our court, be a member of the bar for at least five years, and be determined by our Chief Judge to be competent to perform the duties of an arbitrator. An arbitrator receives \$100 for each case arbitrated. Three arbitrators are appointed for each case. They are randomly selected by the Clerk and each panel of three arbitrators is composed of one whose practice is primarily representing plaintiffs, one whose practice is primarily representing

defendants, and one whose practice does not fit either category. The arbitrators are scheduled for hearing dates several months in advance. However, it is not until the judge signs the order designating the arbitrators who will hear the case (approximately 30 days prior to the arbitration hearing) that counsel learn the identity of the arbitrators and the arbitrators become aware of the case assigned to them.

D. Arbitrators' Award

Immediately after the hearing, the arbitrators make a very simple award, e.g., "Award in favor of defendant" or "Award in favor of plaintiff in the amount of \$ against (naming one or more defendants)." The arbitrators are instructed that they should not file findings of fact, conclusions of law nor opinions of any kind. The arbitrators' award shall be entered as the final judgment of the Court, unless within 30 days of the filing of the award a party demands a trial de novo.

E. Demand for Trial De Novo

Upon the filing of a demand for trial de novo, the case proceeds as if it had never been heard by the arbitrators. The party who demands a trial de novo (except the United States) must pay into the court the \$100 fee paid to each arbitrator (a total of \$300) unless the court signs an order permitting the party to proceed in forma pauperis. The arbitrators' fee so deposited will be returned in the event the party demanding the trial de novo obtains a final judgment, exclusive of interest and costs, more favorable than the arbitrators' award. Otherwise, the sum so deposited is forfeited to the United States.

XV. APPEALS

A. Civil

In civil cases, you have 30 days to file an appeal, unless the government is a party, in which case you have 60 days. The time commences from the date the order or judgment is entered on the docket (calendar days, not working days). A cross appeal should be filed 14 days from the filing of the first appeal.

For cases filed in paper format, an original notice of appeal, a copy for each counsel of record, a copy for the Third Circuit Court of Appeals and a copy for the District Court Judge are needed.

B. Criminal

In criminal cases you have 10 days to file an appeal. Cross appeals should also be filed within 10 days.

For cases filed in paper format, an original notice of appeal, a copy for all counsel of record, a copy for the Third Circuit Court of Appeals and a copy for the District Court Judge are needed. Also needed is the Clerk's Information Sheet concerning criminal cases in which a notice of appeal is filed.

If the attorney is court-appointed, pursuant to the provisions of the Criminal Justice Act, a filing fee is not required.

C. Report and Recommendation of U.S. Magistrate Judge

A party has 10 days to file objections. An original and one copy is required.

D. Bankruptcy

A party has 10 days to file a bankruptcy appeal to the District Court. This appeal is filed in the Bankruptcy Court. An original and copies for all counsel of record are required. Counsel must file designation of record on appeal (Bankruptcy Rule 8002).

E. Patent, "Little Tucker Act" and Claims Court Transfer Cases

Appeals in patent and "Little Tucker Act" cases (28 U. S. C. §§ 1295 (a) (1) - (2)), from certain interlocutory orders in these cases (28 U.S.C. § 1295(c)), and from orders transferring or refusing to transfer cases to the United States Claims Court (28 U.S.C. § 1292 (d)(4)(B)), go to the United States Court of Appeals for the Federal Circuit. Federal Circuit Rules, practice notes, and appendix of forms are found in the Rules of Practice Before the United States Court of Appeals for the Federal Circuit, available from the Clerk of that Court upon request. Call (202) 633-6550 or write to 717 Madison Place, N.W., Washington, DC 20439.

F. Service

Appellate Rule 3(d) outlines the procedures for service of the notice of appeal.

The Clerk of Court is responsible for serving a copy of the notice of appeal by mail to counsel of record other than the appellant. The date the notice of appeal was filed is noted on each copy

served. A notation is made on the docket by the clerk of the names of the parties to whom copies are mailed and the date of mailing.

G. Filing Fee

The \$5 filing fee for the notice of appeal and the \$100 docket fee for the Court of Appeals are tendered to the Clerk of Court at the time of filing the notice of appeal. If the fee is not paid within 14 days after docketing, the clerk is authorized to dismiss the appeal.

H. Preparation of the Record on Appeal

Rules 10 and 11 of the Federal Rules of Appellate Procedure provide for certification and transmittal of the original district court records file and exhibits to the Court of Appeals. However, the United States Court of Appeals for the Third Circuit has initiated an experimental program for retention of records in the district courts. In order to monitor record and case management, the district courts have been directed to retain the court records and to transmit to the Court of Appeals a certified copy of the docket entries in lieu of the entire record.

However, Rule 14 of the Third Circuit Rules provides that all reinstated parts of the record are to be transmitted if any party or the court requests such at any time during the pendency of the proceeding.

Rule 10(b) requires the appellant within 10 days after filing of the notice of appeal to order from the court reporter a transcript of the proceedings not already on file that the appellant deems necessary for inclusion in the record (**Appendix P**). Rule 15 of the Third Circuit Rules also requires that a deposit be made with the court reporter of the estimated cost of transcript.

Any questions you may have concerning appeals should be directed to Kevin Eibel, Appeals Clerk, 267-299-7015.

XVI. CERTIFICATION OF JUDGMENT (AO 451)

Check Appellate Rule 4(a)(4) before issuing an AO 451. Also check the docket sheet for any post-judgment motions which may have the effect of "staying" the execution on the judgment.

The clerk does not have the authority to issue an AO 451 if a Motion to Vacate the Judgment,

Motion for Reconsideration, or Motion to Stay is pending or unless the "appeal time" has expired except when ordered by the court that entered the judgment for good cause shown. (28 U.S.C. § 1963, as amended.) The appeal time commences to run from the date the judgment is entered on the docket, unless otherwise ordered by the Court. The clerk is not authorized to issue an AO 451 before the expiration of the appeal time because the case may be "reversed" on appeal and result in substantial loss to plaintiff because of the executions on the property of the defendant.

Normally, all civil cases may be appealed within 30 days from the date of entry of the final judgment on the docket. The United States always has 60 days within which to file an appeal. Be sure to attach a certified copy of the judgment to the AO 451 form.

XVII. REFERRAL TO UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. § 636(c) and Local Civil Rule 72.1, U.S. Magistrate Judges may conduct, upon consent of all the parties in a civil case, any or all proceedings, including a jury or non-jury trial, and order the entry of a final judgment.

Your decision to consent, or not to consent, to the referral of your case to a U.S. Magistrate Judge for disposition is entirely voluntary and should be communicated solely to the Clerk of Court. Appropriate consent forms for this purpose are available from the Clerk's Office (**Appendix Q**).

Only if all the parties in the case consent to the referral to a magistrate judge will either the district court judge or the magistrate judge be informed of your decision. The judge will then decide whether or not to refer the case to a magistrate judge for disposition, but no action eligible for arbitration will be referred by consent of the parties until the arbitration has been concluded and trial de novo demanded pursuant to Local Civil Rule 53.2. The court may, for good cause shown on its motion, or under extraordinary circumstances shown by any party, vacate a referral of a civil matter to a magistrate judge.

When a case is referred to a magistrate judge for all further proceedings, including the entry of final judgment, the final judgment may be appealed directly to the Court of Appeals for the Third Circuit, unless the parties elect to have the case reviewed by the appropriate district judge (in which event any further appeal to the Court of Appeals would only be by petition for leave to appeal). Accordingly, in executing a consent form, you will be asked to specify which appeal procedure you elect (see Local Civil Rule 72.1).

XVIII. POST JUDGMENT INTEREST RATE

In accordance with 28 U.S.C. § 1961 and 40 U.S.C. § 258, interest shall be allowed on any money judgment in a civil case recovered in a district court. Execution therefor may be levied by the marshal, in any case where, by the law of the State in which such court is held, execution may be levied for interest on judgments recovered in the courts of the State. Such interest shall be calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment. Requests for the current rate and any questions should be directed to Mary Chase, Operations Manager (267-299-7012) or Richard Sabol, Assistant Operations Manager (267-299-7011). Current rates are available through a link to the Federal Reserve from our website, <http://www.paed.uscourts.gov>.

XIX. TAXATION OF COSTS

1. In General

Federal Rule of Civil Procedure 54(d) provides that:

"(e)xcept when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

The Clerk of Court will have no difficulty in those cases where the court has expressly allowed or disallowed costs in the final order or judgment.

Costs will not be taxed until the underlying litigation is completed; this is based on the principle that until the underlying litigation is over, the issue of who is the ultimately prevailing party has not yet been determined.

Costs are effective as of the date judgment is entered on the docket. In cases where the Clerk must determine allowable costs, the following points should be kept in mind:

- In any case brought under a specific statute, the clerk's office must check to see if that statute has provisions concerning costs.
- On the dismissal or remand of a case for lack of jurisdiction, costs can only be allowed on order of the judge (and not the Clerk) pursuant to 28 U.S.C. § 1919.
- The section of § 1920 requiring one day's notice simply means that at least one day must elapse between the filing of the bill of costs and the taxing of costs; as a practical matter, it is usually necessary in the Eastern District of Pennsylvania for much more than one day to process a taxation of costs request pursuant to § 1920 and these procedures.
- Either party can appeal the taxation opinion to the court within 5 days, pursuant to F.R.C.P. 54(d)(1).
- The bill of costs must be accompanied by an affidavit pursuant to 28 U.S.C. § 1924 stating that the costs were actually and necessarily incurred.
- If the parties have stipulated prior to the final judgment as to how costs will be apportioned, that stipulation is controlling.¹

2. Burden of Proof

F.R.C.P. 54(d) directs that costs "shall be allowed as of course to the prevailing party unless the court otherwise directs" (emphasis added). This language creates a heavy presumption in favor of an award of costs, once it has been shown that the costs sought are, at least on their face, arguably

1 . Frigiquip Corp. v. Parker-Hannifin Corp., 75 F.R.D. 605 (W.D. Okla. 1977).

of those types of costs listed in the taxation statute, 28 U.S.C. § 1920.² This presumption is based on the federal policy that taxation of costs is seen as a ministerial act in civil cases, and is not seen as a penalty.³ A consequence of this presumption is that the losing party must overcome the presumption in favor of costs.⁴ Another consequence of this is that denial of costs to a prevailing party is considered punitive against that prevailing party.⁵ Another consequence of this presumption is that if the Clerk of Court denies otherwise allowable costs to a prevailing party, the Clerk must specifically state what bad act, defect or impropriety on the part of that prevailing party leads the Clerk to deny otherwise allowable costs to that prevailing party.⁶

3. Objections to Taxation of Costs

Although there is a presumption in favor of allowing costs, this presumption can be rebutted by use of one of several objections available to the losing party. Individual courts vary as to the weight given to these objections.

- A. Indigence. One common defense is the indigence of the losing party. We note that F.R.C.P. 54(d) directs that costs "shall be allowed as of course to

2. Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). See, also, U.S. Industries v. Touche Ross & Co., 854 F.2d 1223, 1245 (10th Cir. 1988); Connell v. Sears Roebuck & Co., 722 F.2d 1542, 1553 (Fed. Cir. 1983); Sun Ship, Inc. v. Lehman 655 F.2d 1311, 1314-7 (D.C. Cir. 1981); Griffith v. Mt. Carmel Medical Center, 157 F.R.D. 499 (D. Kansas 1994).

3. Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998); Weseloh-Hurtig v. Hepker, 152 F.R.D. 198 (D. Kansas 1993).

4. Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). See, also, United States Industries v. Touche Ross & Co., 824 F.2d 1223, 1245 (10th Cir. 1988); Furr v. AT&T Technologies, Inc., 824 F.2d 1537, 1550 (10th Cir. 1987); Bergquist v. County of Cochise, 806 F.2d 1364, 1371 (9th Cir. 1986); Wellman v. Faulkner, 715 F.2d 269, 277 (7th Cir. 1983); Serna v. Manzano, 616 F.2d 1165, 1167-8 (10th Cir. 1980); Walters v. Roadway Express, Inc., 557 F.2d 521, 526 (5th Cir. 1977).

5. Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3rd Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975).

6. Pearlstine v. United States, 649 F.2d 194, 198-9 (3rd Cir. 1981); ADM Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, (3rd Cir. 1975); Muslin v. Frelinghuysen Livestock Managers, Inc., 777 F.2d 1230, 1236 (7th Cir. 1985); Schwarz v. Folloder, 767 F.2d 125, 131 (5th Cir. 1985); Hudson v. Nabisco Brands, Inc., 758 F.2d 1237, 1243 (7th Cir. 1985); Gardner v. Southern Railway Systems, 675 F.2d 949, 954 (7th Cir. 1982); In Re Olympia Brewing Co. Securities Litigation, 613 F.Supp. 1286, 1302 (ND Ill. 1985).

the prevailing party unless the court otherwise directs" (emphasis added). This language creates a heavy presumption in favor of an award of costs.⁷ Economic disparity between the parties is not a basis for disallowing costs, and a very strong presumption exists that consideration of the equities does not favor a disallowance of costs by the court.⁸ Moreover, mere economic disparity between the parties is not sufficient to overcome the presumption in favor of allowing costs; the clerk will not consider this objection unless the losing party is actually indigent, not just less affluent than the prevailing party⁹; however, the clerk's office may tax costs against indigent parties,¹⁰ and even complete and utter inability to pay is not grounds for a disallowance of costs.¹¹ Likewise, even the granting of in forma pauperis status to the losing party does not rebut this strong presumption.¹² The indigence defense will only be considered where the losing plaintiff brought the suit in good faith.¹³

- B. Bankruptcy. Judicial proceedings relating to a claim against a debtor who has filed for bankruptcy are void ab initio absent relief from the automatic stay.¹⁴ This rule includes proceedings for taxation of costs; costs may not be taxed against a debtor in bankruptcy because of the

7. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); U.S. Industries v. Touche Ross & Co., 854 F.2d 1223 (10th Cir. 1988); Connell v. Sears Roebuck & Co., 722 F.2d 1542 (Fed. Cir. 1983).

8. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977). Accord, Weaver v. Toombs, 948 F.2d 1004 (6th Cir. 1991).

9. Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Simmons v. McLean Trucking Co., 100 F.R.D. 61, 62 (N.D. Ga. 1983); Maldonado v. Parasole, 66 F.R.D. 388, 390-1 (E.D.N.Y. 1975).

10. Action Alliance for Senior Citizens of Greater Philadelphia, Inc. v. Shapp, 74 F.R.D. 617, 620 (E.D. Pa. 1977).

11. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998).

12. Washington v. Patlis, 916 F.2d 1036 (5th Cir. 1990); Chevrette v. Marks, 558 F.Supp. 1133 (M.D. Pa. 1983).

13. Martin v. Frontier Federal Savings and Loan Association, 510 F. Supp. 1069 (W.D. Okla. 1981); Schaulis v. CTB/McGraw-Hill, Inc., 496 F.Supp. 666, 680 (N.D. Cal. 1980).

14. Constitution Bank v. Tubbs, 68 F.3d 685 (3d Cir. 1995).

automatic stay provision of the Bankruptcy Code.¹⁵

- C. "Chilling Effect" on Lawsuits that allegedly address important societal issues. A non-prevailing plaintiff will sometimes argue that the lawsuit addressed important issues of public policy and that an award of costs in the instant case would have a chilling effect on future lawsuits that address important societal issues. This is not a valid reason to deny costs in light of the directive of F.R.C.P. 54(d)(1) that costs "shall" be taxed "as of course" against the non-prevailing party.¹⁶ This is because taxation of costs is seen as a routine, ministerial act in civil cases, and is not seen as a penalty.¹⁷
- D. "Good faith." Good faith litigation is not, in itself, sufficient to rebut the presumption in favor of allowing costs. If costs were taxable only where the losing party acted in bad faith, Federal Rule of Civil Procedure 54(d) would have very little meaning.¹⁸ The bare allegation that an action was brought in good faith and was neither frivolous, unreasonable nor without foundation is not sufficient to overcome the presumption inherent in Fed. P. Civ. P. 54(d) that "costs shall be allowed as of course to the prevailing party unless the court otherwise directs" (emphasis added). As the court explained in Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975), "(i)f the awarding of costs could be thwarted every time the unsuccessful party is a normal, average party and not a knave, Rule 54(d) would have little substance remaining." 516 F.2d at 776. Hence, "good faith litigation does not absolve a party from imposition of costs." ¹⁹

15. Franklin Savings Association v. Office of Thrift Supervision, 31 F.3d 1020 (10th Cir. 1994).

16. Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995). See, also, McGill v. Faulkner, 18 F.3d 456 (7th Cir. 1994); Pion v. Liberty Dairy Co., 922 F.Supp. 48 (W.D. Mich 1996).

17. Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998); Weseloh-Hurtig v. Hepker, 152 F.R.D. 198 (D. Kansas 1993).

18. Popeil Brothers, Inc. v. Schick Electric, Inc., 516 F.2d 772 (7th Cir. 1975); McGuigan v. Cae Lank Corp., 155 FRD 31 (N.D.N.Y. 1994); Phillips v. Cameron Tool Corp., 131 FRD 151 (S. D. Ind. 1990); Maldonado, supra, 66 F.R.D. 388 (E.D.N.Y. 1975).

19. Quoting Maldonado v. Parasole, 66 FRD 388,390 (EDNY 1975). See, also, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Greene v. Fraternal Order of Police, 183 FRD 445 (ED Pa. 1998); McGuigan v. Cae Lank Corp., 155 FRD 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 FRD 151 (S D. Ind. 1990).

- E. Verdict allegedly incorrect. It is not a valid objection that the issues in the underlying case were closely contested and that the final judgment could have, or should have, gone in the other direction.²⁰
- F. Untimely filing of bill of costs. No statute or Federal rule governs what constitutes a timely filing; likewise, the United States District Court for the Eastern District of Pennsylvania has no local civil rule governing what constitutes a timely filing. In lieu of any local rule, it has been held that bills of costs must be filed within a reasonable time after the conclusion of litigation.²¹
- G. Misconduct by the prevailing party. The court may deny costs where there has been misconduct by the prevailing party during the litigation process, which led to excessive costs.²² This defense must be raised on appeal to the court after the Clerk of Court enters the taxation opinion as the Clerk of Court has no fact-finding mechanism to determine if the prevailing party has committed misconduct.
- H. Less than total success by the prevailing party. In the United States District Court for the Eastern District of Pennsylvania, the question of which party prevails is determined by reading the text of the final entry of judgment.²³ The test of whether a plaintiff is "the prevailing party" is whether that plaintiff obtained any relief; it is not necessary to receive all of the relief sought.²⁴ The

20 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000) .

21 . Congregation of the Passion, Holy Cross Province v. Touche, Ross & Co., 854 F.2d 219 (7th Cir. 1988); United States v. Hoffa, 497 F.2d 294 (7th Cir. 1974); Nelson v. Darragh Co., 120 FRD (WD Ark. 1988); Sudouest Import Sales Corp. v. Union Carbide Corp., 102 FRD 264 (D.P.R. 1984).

22 . Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3rd Cir. 1985); Matter of Penn Central Transportation Co., 630 F.2d 183, 191 (3rd Cir. 1980); ADM. Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, 664 (3rd Cir. 1975); Comyno-Frink Co. v. Volk Manufacturing Co., 595 F.Supp. 302, 303 (ED Pa. 1982).

23 . Greene v. Fraternal Order of Police, 445 (ED Pa. 1998); Lacovara v. Merrill Lynch, Pierce, Fenner & Smith, 102 F.R.D. 959 (E.D. Pa. 1984). See, also, Hines v. Perez, 242 F.2d 459 (9th Cir. 1957); Sperry Rand Corp. v. A-T-O, Inc., 58 F.R.D. 132 (E.D.Va. 1973).

24 . Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3rd Cir. 1985); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). See, also, Green Construction Co. v. Kansas Power and Light Co., 153 F.R.D. 670 (D. Kansas 1994); Weseloh-Hurtig v. Hepker, 152 FRD 198

plaintiff is considered the prevailing party and the defendants are considered the non-prevailing parties in those situations where a favorable judgment is entered for plaintiff on any of the claims plaintiff asserted, even if plaintiff is only successful on a fraction of the claims asserted and even if plaintiff obtains only a fraction of the relief sought.²⁵ Likewise, the law is clear that where a plaintiff does not prevail on any of his claims, defendants are considered the prevailing parties.²⁶ This rule applies and defendants are considered the prevailing parties, even where defendants do not prevail on their counterclaims.²⁷ It is also important to realize that the judgment that controls the issue of which party prevailed is the judgment at the final level of appeal a case reached.²⁸ We note that the party who has prevailed at the final stage a lawsuit reaches is considered the prevailing party for the entire lawsuit and may recover costs related to all stages of the lawsuit. This includes earlier stages at which the ultimate prevailing party did not prevail.²⁹ Also not that where prevailing party receives relief through non-judicial means, the party is still entitled to costs.³⁰

(D. Kansas 1993).

25 . Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985). See, also, Zackaroff v. Koch Transfer Co., 862 F.2d 1263 (6th Cir. 1988); First Community Traders, Inc. v. Heinold Commodities, Inc., 766 F.2d 1007 (7th Cir. 1985); Friends for All Children v. Lockheed Aircraft Corp., 725 F.2d 1392 (DC Cir. 1984); Superturf, Inc. v. Monsanto Co., 660 F.2d 1275 (8th Cir. 1981); Jones v. Diamond, 594 F.2d 997 (4th Cir. 1979); U.S. v. Mitchell, 580 F.2d 789 (5th Cir. 1978); K-2 Ski Co. v. Head Ski Co., 506 F.2d 47 (9th Cir. 1974); Garonzik v. Whitman Diner, 910 F.Supp. 167 (D.N.J. 1995); Weseloh-Hurtig v. Hepker, 152 FRD 198 (D. Kansas 1993); Bruno v. Western Electric Co., 618 F.Supp. 398 (D. Colorado 1985); Seber v. Daniels Transfer Co., 618 F.Supp. 1311 (W.D. Pa. 1985); Wade v. Mississippi Cooperative Extension Service, 64 F.R.D. 102 (N.D.Miss. 1974); Sperry Rand Corp. v. A-T-O, Inc., 58 F.R.D. 132 (E.D.Va. 1973).

26 . Greene v. Fraternal Order of Police, 183 FRD 445 (ED Pa. 1998); Lacovara v. Merrill Lynch, 102 F.R.D. 959 (ED Pa. 1984). See, also, Scientific Holding Co. v. Plessey, 510 F.2d 15 (2nd Cir. 1974).

27 . Lacovara v. Merrill Lynch, 102 F.R.D. 959 (ED Pa. 1984). See, also, Scientific Holding Co. v. Plessey, 510 F.2d 15 (2nd Cir. 1974).

28 . Farmer v. American Arabian Oil Co., 379 U.S. 227 (1964). See, also, Furman v. Cirrito, 782 F.2d 353 (2d Cir. 1986); Knox v. Schweiker, 567 F.Supp. 959 (D.Del. 1983).

29 . Farmer v. American Arabian Oil Co., 379 U.S. 227 (1964). See, also, Furman v. Cirrito, 782 F.2d 353 (2d Cir. 1986); Knox v. Schweiker, 567 F.Supp. 959 (D.Del. 1983).

30 . Meder v. Everest & Jennings, Inc., 553 F.Supp. 149 (E.D. Mo. 1982).

- I. Insufficient itemization. The bill of costs must be neat and legible. There is no requirement for receipts; rather, the key criterion is that costs must be sufficiently itemized to the extent that opposing counsel can make informed objections and the Clerk or Court can make an informed determination of whether requested costs are allowable.³¹ We note that when counsel has verified by affidavit that the costs sought were the actual costs incurred, the fact of an affidavit's existence bears great weight when the issue is raised of whether the costs requested are the actual costs.³²
- J. Disallowance of request for attorney fees. An award or disallowance of attorney fees and attorney costs pursuant to Federal Rule of Civil Procedure 54(d)(2) is totally separate and distinct from an award of statutory costs pursuant to Federal Rule of Civil Procedure 54(d)(1). Accordingly, 54(d)(1) costs may be assessed even when 54(d)(2) costs are disallowed.³³
- K. Official Bill of Costs form. Some districts require that the bill be on the form provided by the Administrative Office (**Appendix R**), although in the United States District Court for the Eastern District of Pennsylvania, the form is optional.

4. Allowable Items of Costs

The Clerk may only tax those items specifically listed in the taxation of costs statute. 28 U.S.C. § 1920.³⁴ This statute states:

A judge or clerk of any court of the United States may tax as costs the

31 . Harceg v. Brown, 536 F.Supp. 125 (N.D. Ill. 1982). See, also, Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983).

32 . In re: Kulicke and Soffa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3d Cir. 1991); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

33 . Greene v. Fraternal Order of Police, 183 FRD 445 (ED Pa. 1998).

34 . Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987); Farmer v. Arabian American Oil Co., 379 U.S. 227 (1964); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); In re: the Matter of Penn Central Transportation Co., 630 F.2d 183 (3d Cir. 1980).

following:

- "(1) Fees of the clerk or marshal;
- "(2) Fees of the court reporter for all or any part of its stenographic transcript necessarily obtained for use in the case;
- "(3) Fees and disbursements for printing and witnesses;
- "(4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- "(5) Docket fees under section 1923 of this title;
- "(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title...."

As the Clerk's power is strictly limited by 28 U.S.C. § 1920, a necessary corollary is that if a requested item is obviously, without any doubt, never authorized by 28 U.S.C. § 1920 under any circumstances, the Clerk may not tax that item as a cost, even where counsel has not raised the objections in question.³⁵

The following is a discussion of the manner in which the Clerk of the United States District Court for the Eastern District of Pennsylvania addresses issues raised by 28 U.S.C. § 1920.

28 U.S.C. § 1920(1)

- Fees of the clerk. These fees are routinely taxed pursuant to 28 U.S.C. § 1920(1).³⁶
We note that costs related to fees of a state clerk related to federal litigation, as well as costs for removal to federal court, are recoverable in federal court pursuant to 28

35 . Andrews v. Suzuki Motor Co., 161 FRD 383 (SD Ind. 1995).

36 . Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992); Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984). See, also, United States v. Orenic, 110 F.R.D. 584 (W.D. Va. 1986); Bishop v. West American Insurance Co., 95 F.R.D. 494 (N.D.Ga. 1982).

U.S.C. § 1920(1).³⁷

- Fees of the marshal. Courts interpret the provision of 28 U.S.C. § 1920(1) allowing for taxing of fees on the Marshal as permitting the taxing of costs for private process servers.³⁸ In examining the relevant caselaw concerning costs pursuant to 28 U.S.C. § 1920, there is a recurring theme that the prevailing party may recover costs that were necessary for his counsel's effective preparation, judged in light of the situation existing at the time the costs were incurred.³⁹

28 U.S.C. § 1920(2)

- Fees of the court reporter. Title 28 U.S.C. § 1920(2) allows for "fees of the court reporter for all or any party of the stenographic transcript necessarily obtained for use in the case." This permits both trial transcripts and deposition transcripts.
- Trial transcripts. The majority position, which has been adopted in the United States District Court for the Eastern District of Pennsylvania is that a trial transcript is seen as necessarily obtained within the purview of the statute where it is necessary for counsel's effective trial preparation, judged in light of the situation existing at the time of the ordering of the transcript.⁴⁰
- Depositions. The statutory standard of necessity is satisfied where the taking of the depositions appears to have been reasonably necessary to counsel's effective preparation in light of the situation existing at the time of the taking, even where the

37 . Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984); United States v. Orenic, 110 F.R.D. 584 (W.D. Va. 1986); Bishop v. West American Insurance Co., 95 F.R.D. 494 (N.D.Ga. 1982).

38 . Griffith v. Mt. Carmel Medical Center, 157 F.R.D. 499 (D. Kansas 1994); Bass v. Spitz, 522 F. Supp. 1343 (E.D. Mich. 1981).

39 . In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992) Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984). See, also, Charter Medical Corp. v. Cardin, 127 F.R.D. 111 (D. Maryland 1989); International Wood Processors v. Power Dry, Inc., 598 F.Supp. 299 (D.S.C. 1984); Gillam v. A. Shyman, Inc., 31 F.R.D. 271 (D. Alaska 1962).

40 . In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); International Wood Processors v. Power Dry, Inc., 598 F.Supp. 299 (D. S.C. 1984).

depositions were not used at trial or otherwise introduced into evidence.⁴¹ When a party deposes a witness, there is a very strong presumption that the witness's testimony meets this standard of necessity.⁴²

- Videotaped testimony. Modern caselaw states that both stenographic *and* videotaped depositions fall within the definition of "transcripts."⁴³ The statutory standard of necessity is satisfied where the taking of the depositions appears to have been reasonably necessary to counsel's effective preparation in light of the situation existing at the time of the taking, even where the depositions were not used at trial.⁴⁴
- Daily copy. Even where the transcript is "necessarily obtained" within the meaning of the statute, counsel may not always recover costs in having it prepared on an expedited basis (i.e., "daily copy" rate). Daily copy rates have been allowed where trial circumstances, judged at the time of the taking, justify such a schedule.⁴⁵ Courts have identified certain factors which will permit the taxing of costs at the daily copy

41 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992); Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984). See, also, Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983); DeRoburt v. Gannett Co., 558 F. Supp. 1223 (D. Hawaii 1983); Independence Tube Corp. v. Copperwald Corp., 543 F. Supp. 706 (N.D. Ill. 1982); Harrisburg Coalition Against Ruining the Environment v. Volpe, 65 F.R.D. 608 (M.D. Pa. 1974).

42 . U.S. Industries v. Touche, Ross & Co., 854 F. 2d 1223 (10th Cir. 1988); Marcoin, Inc. V. Edwin K. Williams & Co., 88 F.R.D. 588 (ED Va. 1980).

43 . Morrison v. Reichhold Chems., 97 F.3d 460 (11th Cir. 1996); Commercial Credit Equipment Corp. v. Stamps, 920 F.2d 1361 (7th Cir. 1990); United International Holdings v. Wharf, Ltd., 174 FRD 479 (D. Colo. 1997); Weseloh-Hurtig v. Hepker, 152 FRD 198 (D. Kansas 1993); Deaton v. Dreis & Krump Mfg. Co. (ND Ohio 1991).

44 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992); Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984). See, also, Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983); DeRoburt v. Gannett Co., 558 F. Supp. 1223 (D. Hawaii 1983); Independence Tube Corp. v. Copperwald Corp., 543 F. Supp. 706 (N.D. Ill. 1982); Harrisburg Coalition Against Ruining the Environment v. Volpe, 65 F.R.D. 608 (M.D. Pa. 1974).

45 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); Tracy v. Goldberg, 283 F.Supp. 188 (E.D. Pa. 1962). See, also, Charter Medical Corp. v. Cardin, 127 FRD 111 (D. Maryland 1989); Harrisburg Coalition Against Ruining the Environment v. Volpe, 65 F.R.D. 608 (M.D. Pa. 1974).

rate. These factors include the length of trial and the complexity of the issues.⁴⁶ Other factors include the multiplicity of the parties, whether the case was tried to the court or to the jury; whether proposed findings of fact were required whether a transcript was requested by the court; and whether it was feasible for counsel to take notes.

28 U.S.C. § 1920(3)

- Printing costs. Printing costs are recoverable pursuant to 28 U.S.C. § 1920(3).⁴⁷
- Witness fees. Witness fees, meaning attendance, travel and subsistence fees, are recoverable under 28 U.S.C. § 1920(3); 28 U.S.C. § 1821 sets limits on these fees. Title 28 U.S.C. § 1821(b) limits witness attendance fees to a certain amount per day. Title 28 U.S.C. § 1821(c) speaks in terms of reasonableness with regard to witness. Title 28 U.S.C. § 1821(d) limits witness subsistence allowances in "high cost" areas such as the Eastern District of Pennsylvania to \$164.00 per day, as of June 12, 2002.

The majority view, adopted by the United States District Court for the Eastern District of Pennsylvania, is that witness fees are taxable for every day a witness is present, even where he does not testify.⁴⁸ Authority permits the taxing of costs for "travel days." where reasonable⁴⁹; this includes subsistence fees for travel days where the need to travel was reasonable⁵⁰. No witness fees are taxable for witnesses who

46 . Kaiser Industries Corp. v. McLouth Steel Corp., 50 F.R.D. 5, 8-9 (E.D. Mich. 1970).

47 . Shannon v. United States Department of Housing and Urban Development, 433 F.Supp. 249 (ED Pa. 1977).

48 . Greene v. Fraternal Order of Police, 183 FRD 445 (ED Pa. 1998). See, also, Nissho-Iwai Co. v. Occidental Crude Sales, 729 F.2d 1530 (5th Cir. 1984); Quy v. Air America, Inc., 667 F.2d 1059 (DC Cir. 1981); Spiritwood Grain Co. v. Northern P.R. Co., 179 F.2d 338 (8th Cir. 1950); Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983); Independence Tube Corp. v. Copperweld Corp., 543 F.Supp. 706 (ND Ill. 1982); Christian v. Tackett, 86 FRD 220 (ND Miss. 1979); Gillam v. A. Shyman, Inc., 31 F.R.D. 271 (D. Alaska 1962).

49 . Greene v. Fraternal Order of Police, 183 FRD 445 (ED Pa. 1998); Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984). See, also, Louisiana Power and Light Co. v. Kellstrom, 50 F.3d 319 (5th Cir. 1995).

50 . Raio v. American Airlines, 102 FRD 608 (ED Pa. 1984).

are parties to the litigation.⁵¹ Witness fees are taxable for employees of a corporate party as long as they are not real parties in interest to the litigation.⁵²

The so-called "100-mile rule," limiting witness travel expenses to 100 miles, has been increasingly disregarded as antiquated.⁵³

28 U.S.C. § 1920(4)

- Exemplification and copies of papers. Whether costs are allowed for copies turns on the factual question of what was copied.

(a) Copies of Evidence. Courts have traditionally seen costs related to the production of copies of documentary evidence, such as police reports, weather reports, medical records, personnel records, business records, land records, newspapers, tax records, and the like, as recoverable costs under 28 U.S.C. § 1920(4).⁵⁴ Likewise, costs for copies of demonstrative evidence, such as photos, maps, blow-ups, charts, diagrams and the like are allowable under 28 U.S.C. § 1920(4) as exemplification.⁵⁵ In examining the relevant caselaw concerning costs pursuant to 28 U.S.C. § 1920, there is a recurring theme that the prevailing party may recover costs that were necessary for his counsel's effective preparation, judged in light of the situation existing at the time the costs were

51. Greene v. Fraternal Order of Police, 183 FRD 445 (ED Pa. 1998). See, also, Bee v. Greaves, 910 F.2d 686 (10th Cir. 1990); Heverly v. Lewis, 99 F.R.D. 135, 136 (D.Nev. 1983).

52. Todd Shipyards Corp. v. Turbine Services, Inc., 592 F.Supp. 380, 400 n.24 (E.D. La. 1984); Morrison v. Alleluia Cushion Co., 73 F.R.D. 70, 71 (N.D. Miss. 1976); Sperry Rand Corp. v. A-T-O Co., 58 F.R.D. 132 (E.D. Va. 1973).

53. Raio v. American Airlines, 102 FRD 608 (ED Pa. 1984). See, also, Quy v. Air America, Inc., 667 F.2d 1059 (D.C. Cir. 1981); Shevin v. Lederman, 92 F.R.D. 752 (D. Colo. 1981).

54. Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D. Pa. 1992); Raio v. American Airlines, 102 F.R.D. 608 (E.D. Pa. 1984). See, also, Haagen Dazs v. Double Rainbow Gourmet Ice Cream, 920 F.2d 587 (9th Cir. 1990); Robinson v. Burlington Northern Railroad Co., 963 F.Supp. 691 (N.D. Ill. 1997); Postednik v. Sullivan, 718 F.Supp. 1097 (S.D.N.Y. 1989); Grider v. Kentucky & ITR Co., 101 F.R.D. (W.D. Ky. 1984).

55. In re Kulicke and Soffa Industries Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990); aff'd, 944 F.2d 897 (3rd Cir. 1991). See, also, Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); Nissho-Iwai Co. v. Occidental Crude Sales, Ltd., 729 F.2d 1530 (5th Cir. 1984); Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S.D. Ind. 1990).

incurred.⁵⁶ We are satisfied that the statutory standard of necessity has been met. Counsel's verified by affidavit that all costs sought were actually and necessarily incurred includes the corollary that a reasonable number of duplicate copies is allowable.⁵⁷

(b) Copies of Attorney Work Product. As stated above, whether costs are allowed for copies turns on the factual question of what was copied. It is well established that the Clerk may only tax as costs those items specifically listed in the taxation statute, 28 U.S.C. § 1920.⁵⁸ The statutory power to tax costs under 28 U.S.C. § 1920 does not include attorney fees or any item of costs which may be said to be a "facet" of attorney fees.⁵⁹ Costs of attorney work product, such as pleadings, motions, memoranda, proposed orders and briefs, are seen as more closely related to attorney fees than any costs recoverable under 28 U.S.C. § 1920.⁶⁰

28 U.S.C. § 1920(5)

- Docket fees. Docket fees under 28 U.S.C. § 1923 are recoverable pursuant to 28 U.S.C. § 1920(5).

28 U.S.C. § 1920(6)

- Expert witness fees. Expert witness fees in excess of the amount set forth in 28

56 . In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992); Raio v. American Airlines, 102 F.R.D. 608 (E.D.Pa. 1984). See, also, Charter Medical Corp. v. Cardin, 127 F.R.D. 111 (D. Maryland 1989); International Wood Processors v. Power Dry, Inc., 598 F.Supp. 299 (D.S.C. 1984); Gillam v. A. Shyman, Inc., 31 F.R.D. 271 (D. Alaska 1962).

57 . In re Kulicke and Soffa Industries Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990); aff'd, 944 F.2d 897 (3rd Cir. 1991); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

58 . Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987); Farmer v. Arabian American Oil Co., 379 U.S. 227 (1964); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In the Matter of Penn Central Transportation Co., 630 F.2d 183 (3d Cir. 1980).

59 . Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992).

60 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); Levin v. Parkhouse, 484 F.Supp. 1091 (ED Pa. 1980). See, also, Krouse v. American Sterilizer Co., 928 F.Supp. 543 (WD Pa. 1996); Stacy v. Williams, 50 F.R.D. 52 (N.D. Miss. 1970); Bourazak v. North River Insurance Co., 280 F.Supp. 89 (S.D. Ill. 1968).

U.S.C. § 1821(b) are recoverable only if the expert was court-appointed pursuant to 28 U.S.C. § 1920(6). If the expert witness was not court-appointed, 28 U.S.C. § 1821 acts as a ceiling limiting the amount recoverable to a certain amount per day.⁶¹ (Of course, a non-court-appointed expert witness may or may not be able to recover travel costs pursuant to 28 U.S.C. § 1821(c) and subsistence costs pursuant to 28 U.S.C. § 1821(d).

- Fees for interpreters. These fees and the salaries, expenses, and costs of special interpretation services under 28 U.S.C. § 1818 are recoverable pursuant to 28 U.S.C. § 1920(6).

5. Non-allowable Costs

The Clerk of Court may only tax as costs those items specifically listed in the taxation statute.⁶² 28 U.S.C. § 1920. Items outside the scope of the statute include such items as: attorney's fees,⁶³ special master fees,⁶⁴ attorney travel expenses,⁶⁵ legal research costs,⁶⁶ telephone expenses,⁶⁷

61. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437, 445-6 (1987); In re Philadelphia Mortgage Trust, 930 F.2d 306 (3rd Cir. 1990); West Virginia University Hospitals v. Casey, 885 F.2d 11 (3rd Cir. 1989); Dr. Bernard Heller Foundation v. Lee, 847 F.2d 83 (3rd Cir. 1988); Dominic v. Hess Oil V.I. Corp., 841 F.2d 513 (3rd Cir. 1988).

62. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987); Farmer v. Arabian American Oil Co., 379 U.S. 227 (1964); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); In re: the Matter of Penn Central Transportation Co., 630 F.2d 183 (3d Cir. 1980).

63. Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992); U.S. v. Bedford Associates, 548 F.Supp. 748 (S.D.N.Y. 1982); Harrisburg Coalition Against Ruining the Environment v. Volpe, 65 FRD 608 (M.D. Pa. 1974).

64. Nelson v. Darragh Co., 120 FRD 517 (WD Ark. 1988); Mallonee v. Fahey, 117 F.Supp. 259 (S.D. Cal. 1953).

65. Evans v. Fuller, 94 F.R.D. 311, 314 (W.D. Ark. 1982); Neely v. General Electric Co., 90 F.R.D. 627, 630 (N.D. Ga. 1981); United States v. Bexar County, 89 F.R.D. 391, 394 (W.D. Tex. 1981).

66. Di Llano v. North Dakota State University, 951 F.Supp. 168 (D.N.D. 1997); Aloha Towers Associates v. Millenium Aloha, Inc., 938 F. Supp. 646 (D. Hawaii 1996); U.S. v. Bedford Associates, 548 F.Supp. 748, 753 (S.D.N.Y. 1982).

67. Massachusetts Fair Share v. Law Enforcement Assistance Association, 776 F.2d 1066, 1070 (D.C. Cir. 1985); Di Llano v. North Dakota State University, 951 F.Supp. 168 (D.N.D. 1997); General Drivers and Dairy Employees, Local 563 v. Bake Rite Baking Co., 580 F.Supp. 426, 440 (E.D. Wisc. 1984).

secretarial and messenger services⁶⁸ and postage.⁶⁹

6. Arguments Based on Special Status of Parties

- Interveners. The prevailing practice is that interveners in agency actions are treated like any other prevailing or losing party.⁷⁰
- United States as a losing party. Title 28 U.S.C. § 2412 permits taxation against the United States or any agency or official thereof.
- State governments as losing party. The Eleventh Amendment to the Constitution does not bar taxation of costs against a state government, its agencies or officials.⁷¹
- United States as prevailing party. The Federal Courts Administration Act of 1992 (P.L. 102-572) provides that the United States may recover filing fees when it prevails in a civil action.

68 . Di Llano v. North Dakota State University, 951 F.Supp. 168 (D.N.D. 1997); Litton Systems, Inc. v. American Telephone & Telegraph Co., 613 F.Supp. 824, 836 (S.D.N.Y. 1985); Beech Cinema, Inc. v. Twentieth Century Fox Film Corp., 480 F.Supp. 1195, 1198 (S.D.N.Y. 1979), aff'd, 622 F.2d 1106 (2d Cir. 1980).

69 . In the Matter of Penn Central Transportation Co., 630 F.2d 183 (3d Cir. 1980); In re Paolino, 71 B.R. 576, 583 (E.D. Pa. 1987). See, also, Di Llano v. North Dakota State University, 951 F.Supp. 168 (D.N.D. 1997).

70 . American Truck Assoc., Inc. v. I.C.C., 666 F.2d 167, 169 (5th Cir. 1982); American Railway Supervisors Association v. United States, 582 F.2d 1066, 1067 (7th Cir. 1978); Delta Airlines, Inc. v. Civil Aeronautics Board, 505 F.2d 386 (D.C. Cir.1974); Smith v. Board of School Commissioners of Mobile County, 119 FRD 440, 443 (S.D. Ala. 1988); Monroe v. United Air Lines, Inc., 565 F.Supp. 274 (N.D.Ill 1983).

71 . Gay Students Services v. Texas A&M University, 612 F.2d 160, 165 (5th Cir. 1980); Gary W. v. Louisiana, 601 F.2d 240 (5th Cir. 1979); Samuel v. University of Pittsburgh, 538 F.2d 991 (3rd Cir. 1976); Kovats v. Rutgers, 633 F.Supp. 1469, 1475 (D.N.J. 1986); Halderman v. Pennhurst State School and Hospital, 533 F.Supp. 631, 639 (E.D. Pa. 1981).

7. Costs in Admiralty Cases

District courts may award the prevailing party costs incurred in posting a bond in admiralty cases.⁷² The operative factor considered by courts in allowing such costs is the reasonableness of the expense; the prevailing party must pay the lowest available rate.⁷³

8. Appellate Costs

Rule 39 of the Federal Rules of Appellate Procedure governs the allowance of costs on appeal. Unless otherwise provided by local rule, the cost of printing or otherwise reproducing necessary copies of briefs, appendices, and copies of records authorized by Federal Rule of Appellate Procedure 30(f) shall be taxable at rates not higher than those generally charged for such work in the area where the clerk's office is located. A party desiring these costs shall file a bill of costs with the clerk of court of appeals within 14 days of the entry of judgment; the losing party must file objections within ten days of service.

Costs pursuant to F.R.A.P. 39(c) are added to the mandate by the clerk of the court of appeals and taxed by the clerk of the district court, and shall be included in the judgment. Rule 39(c) costs include appellate printing or production of briefs appendices and records, which are, as previously stated, not allowable under 28 U.S.C. § 1920 in the district court. In addition, costs pursuant to F.R.A.P. 39(e) are taxable directly by the clerk of the district court. These costs include preparation and transmission of the record, transcripts, supersedeas bonds and other required bonds, and fees of the appellate clerk. Both types of allowable appellate costs, those allowable under Rules 39(c) and 39(e) are ultimately taxable by the Clerk of the district court, as the district court is the only court with authority to execute on a judgment.⁷⁴ Mandate costs imposed by an appellate court (including the Supreme Court) leave no discretion in the hands of the district court or its Clerk; the Clerk is obligated to tax costs as shown on Mandate of the Court of Appeals. Briggs v. Pennsylvania Railroad Co., 334 U.S. 304 (1948). Although it is over half a century old, the United States Supreme Court's decision in Briggs remains vital law to this date. Casey v. Planned Parenthood of Southeastern Pennsylvania, 14 F.3d 848 (3rd Cir. 1994). See, also, United States v. Board of Public

72 . Copperweld Steel Co. v. DeMag-Mannesmann-Bohler, 624 F.2d 7 (3rd Cir. 1980).

73 . Keystone Shipping Co. v. S.S. Monfiore, 275 F. Supp. 606 (S.D. Tex. 1967); American Hawaiian Ventures v. M.V.J. Latuharhary, 257 F.Supp. 622 (D.N.J. 1966).

74 . Pease v. Rathbun-Jones Engineering Co., 243 U.S. 273 (1917); Woolfson v. Doyle, 180 F.Supp. 86 (S.D.N.Y. 1960).

Education of the City of Savannah and the County of Chatham, 405 F.2d 925 (5th Cir. 1968).

Costs taxable by the United States Supreme Court are limited to fees of the Clerk and costs of printing the joint appendix. When costs are allowed in the Supreme Court, the Clerk shall insert an itemization of the costs in the body of the mandate sent to the court below, and these costs are taxable by the Clerk of the District Court as the District Court is the only court with authority to execute on a judgment.

9. Scheduled Hearings

The prevailing party, having had judgment entered in its favor, may file a bill of costs for any items detailed in 28 U.S.C. § 1920. The bill of costs should then be forwarded to the deputy clerk responsible for taxation of costs.

Once the appeal period has lapsed, where both the prevailing and non-prevailing parties are represented by counsel, the clerk should schedule a telephone conference; if one party is a pro se non-attorney, the clerk shall ask for objections in writing, rather than holding a telephone conference. The clerk should thereafter enter a taxation of costs opinion, accompanied by a judgment (if warranted). The clerk should make a determination based on the arguments made at the conference (if any), any filings or written objections, and the relevant case law. A true and correct copy of the taxation

opinion and any attached judgment shall be forwarded to all parties of record, or their counsel, who have five days to appeal to the presiding district court judge, if they so choose.

10. Reference Sources

The best reference source on the law of taxation is the United States Code Annotated. Other sources are; James William Moore, et al., Moore's Federal Practice (1992); 10 Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d (2d ed. 1983); and Charles Alan Wright, The Law of Federal Courts (4th ed. 1983).

Several articles in legal and other publications are also worthwhile sources of information. These may be available in the court library or in local law libraries, and include: Richard C. Peck, "Taxation of Costs in United States District Courts", 37 F.R.D. 553 (1965); Laura B. Bartell, "Taxation of Costs and Awards of Expenses in Federal Court", 101 F.R.D. 553 (1984); Kenneth R. Levine, "In Forma Pauperis Litigants, Witness Fees and Expenses in Civil Actions", 53 Fordham Law

Review 1461 (1985); Mary Jo Hudson, "Expert Witness Fees as Taxable Costs in Federal Courts-the Exceptions and the Rule", 55 U. Cin. L. Rev. 1207 (1987).

XX. COURTROOM DEPUTY CLERKS

Each judge is assigned a courtroom deputy clerk who is responsible for scheduling and monitoring cases on the judge's calendar. The courtroom deputy clerk acts as a liaison between the judge and counsel, scheduling dates and times for hearings on motions, pretrial hearings and trials, and conferring with attorneys on any special trial procedures.

A. New Case Procedures

The Eastern District of Pennsylvania operates on an individual calendar system, as opposed to a master calendar system, which means that the assigned judge is responsible for all cases assigned, from filing to disposition.

After a case is filed, the courtroom deputy clerk checks the docket for timely service of process and the filing of an answer. If service has not been made within 90 days, a letter will be sent by the courtroom deputy clerk asking that service be made by the 120th day. If service has been made but the complaint has not been answered, again a letter will be sent by the courtroom deputy requesting counsel to motion for judgment by default. Please do not ignore these notices. If you do, it could result in dismissal of the case for lack of prosecution. [See Federal Rule of Civil Procedure 12(a)].

Counsel may receive a status request form by contacting the courtroom deputy to the judge to whom the case is assigned. This form contains questions relating to the scheduling of the case, such as, length of time needed for discovery and estimated length of time for trial.

B. Pretrial Practices

After a complaint is filed, service has been made, and an answer is filed, an order is prepared which sets forth a discovery schedule. The order will specify a date by which all discovery must be completed and schedules a final pretrial conference, generally four to six weeks after the discovery deadline. Usually the case is put in the civil pool for trial in one month. However, not all judges follow the same pretrial practices. If you have any questions, call the courtroom deputy clerk of the judge to whom the case is assigned, or check the court's website at <http://www.paed.uscourts.gov>

for judges' policies and procedures.

C. Scheduling Cases

When discovery has been completed and pretrial conferences have been held, there are three ways in which a case can be scheduled for trial:

1. **Civil Trial Pool** - Most judges have the majority of cases in this pool.
2. **Date Certain** - This is a target date set weeks or months in advance and depends on the judge's calendar and availability of attorneys for the date to be met.
3. **Special Listing** - An agreement exists between the District Court judges and the State Court judges in the five county area of Bucks, Chester, Delaware, Montgomery and Philadelphia (**Appendix S**). These special listings take precedence over all other trial engagements provided the following requirements are met:
 - the listing is established 30 days in advance by notice to counsel involved and all active judges;
 - all district court judges and the judges in the 5-county area are notified at least 30 days in advance of counsel involved and of probable duration of trial;
 - that not more than one such special listing shall be granted by the same judge to one lawyer in a six-month period, except for good cause.

The notice which is sent to district court judges and to court administrators in other courts must contain the name of the case, the date the case is scheduled, name of counsel, and the approximate amount of time required for trial.

D. Trial List

Each judge maintains a trial list of cases generally ready for trial. The federal trial list is

published in the Legal Intelligencer each Monday through Friday. Below is a sample listing:

J.T. GILES, C.J.
Courtroom 17A
Deputy Clerk: Margaret Gallagher
Phone: 267-299-7309

MON., JUNE 2, 2003

On Trial

Civil Jury Trial

10:00 A.M.

2002-4349 **J. Smith**
Becker v. ABC Company
M. Doe; J.P. Stewart

Trial Pool

2000-3661 **p.p.**
Jones v. Friedman
D. Wood

The following notice is published each day in the Legal Intelligencer and explains the policy of the Judges of the United States District Court for listing cases in the Eastern District of Pennsylvania.

1. Counsel shall promptly notify the deputy clerk to each judge before whom he/she has a case listed upon becoming attached for trial in another court. To be accorded recognition, a busy slip, using the designated form, **MUST** be filed in Room 2609 before 1:00 p.m. on the day after counsel becomes attached.
2. Cases in the trial pools do not necessarily appear in the order in which they will be called. Counsel should therefore be ready to begin trial upon receiving telephone call notice, subject to the following:

(a) Counsel whose cases are in the pools will

be given 48 hours' notice, if feasible, but not less than 24 hours notice to be ready for trial with witnesses.

(b) It is counsel's responsibility to check with each judge's deputy clerk on the status and movement of criminal and civil cases in that judge's pool.

(c) Counsel will not be required to commence trial less than 24 hours after completing trial of another case.

E. Judicial Schedule of Trials - Automated System Inquiry (JUST-ASK)

The Judicial Schedule of Trials - Automated System Inquiry (**JUST-ASK**) system provides up-to-date information on the status of trials scheduled in the United States District Court seven days a week, twenty-four hours a day. **JUST-ASK** is offered free of charge and is accessible to any individual or office with a PC and modem.

Events, such as verdicts, settlements, and continuances constantly change the status of cases on the Court's trial list. **JUST-ASK** immediately reflects the daily status of listings as the information becomes available to the Clerk of Court.

All cases scheduled for trial, presently on trial, in the trial pool and special notices from the Court are included on the system. **JUST-ASK** also provides the capability of viewing or downloading a report on the disposition of cases previously listed on the system. For user convenience, all information contained in this system is also available by judge, case number, party name and/or attorney name. The user dials in and chooses the option which is most convenient to view listings, by case, judge, party, attorney, or the entire listing. **JUST-ASK** also allows the user to retrieve a list of each case in which a specified attorney is involved, then the information can be downloaded to the user's computer and printed. Choose download option and follow the directions for your software package. The telephone number for **JUST-ASK** is 215-580-2258.

If you have any questions on scheduling, please contact the courtroom deputy at the number listed.

F. Lobby Kiosk Information System

An automated informational kiosk system, located in the U.S. Courthouse lobby, includes current information on district court and court of appeals hearings, as well as a directory of judges and court clerks, location of other government agencies and general information. The kiosk provides touch screen technology, as well as mapping techniques to guide visitors to their destinations.

G. Busy Slips

It is important that busy slips (**Appendix T**) be filed promptly so that cases can be properly scheduled. Busy slips can be obtained at the front counter of the Clerk's Office, Room 2609, and should be filed in the Clerk's Office by 1:00 p.m. the day after counsel becomes attached. If a conflict arises before a particular judge, priority is given to the oldest case by date of filing. Please advise the courtroom deputy when the attorney is again available, or if the case was settled.

H. Attachments for Trial

Attorneys can only be attached three business days prior to a date of trial and can only be held for attachment for three business days.

I. Continuances - Criminal Cases

The Speedy Trial Act requires that defendants be brought to trial within a 70-day period after indictment or initial appearance before a judicial officer. This 70-day period can be extended only by a judge for specific reasons set forth in the Speedy Trial Act Plan which is on file and available for inspection in the Clerk's Office.

J. Motions

When filing a motion, please include a proposed order for the judge's signature. Since courtroom deputies are responsible for tracking motions, it is important that a certificate of service be attached to the motion so that they can calculate the date the response is due. If the parties have reached an agreement, notify us by stipulation. If a motion has been filed and the parties have settled their dispute, let the courtroom deputy know as soon as possible.

K. Exhibits

At the completion of trial, the courtroom deputy clerk will keep exhibits until all appeals are exhausted or the appeal time has expired. At that point, exhibits will be returned to counsel. If the exhibits are too large or too bulky to mail, the courtroom deputy will send a letter to the attorney requesting that the exhibits be picked up. If the exhibits are not picked up, they will be deemed abandoned and will then be destroyed (see Local Civil Rule 39).

L. Other Duties

Some additional duties performed by courtroom deputy clerks are:

- noting the appearance of counsel in matters before the court;
- impaneling the jury and administering oaths to jurors; providing liaison with the jury clerk as to ordering and canceling of juries; and keeping required records on other jury matters;
- administering oaths to witnesses, interpreters, attorneys on admission, and oaths of allegiance to applicants for citizenship;
- recording proceedings and rulings for minutes of the court; filing, marking, storing, and returning exhibits; and composing minute orders to carry out expressed intention of the judge;
- preparing verdict forms and judgments;
- advising the financial section of the Clerk's Office on matters affecting that section, particularly the imposition of fines and orders of restitution by the judge in criminal cases.

The following charts list the courtroom deputy clerks according to their assigned judge, along with their telephone numbers.

JUDGE	COURTROOM DEPUTY	PHONE NUMBER
James T. Giles, Ch.J.	Margaret Gallagher	267-299-7309
Franklin S. Van Antwerpen	Dennis Hartman	610-252-7548
Herbert J. Hutton	Stephen Iannacone	267-299-7349
Ronald L. Buckwalter	Matthew Higgins	267-299-7369
William H. Yohn, Jr.	Thomas McCann	267-299-7379
Harvey Bartle, III	Katherine Gallagher	267-299-7389
Stewart Dalzell	Eileen Adler	267-299-7399
John R. Padova	Andrea Mack	267-299-7409
J. Curtis Joyner	Angela Mickie	267-299-7419
Eduardo C. Robreno	Constantine Flores	267-299-7429
Anita B. Brody	James Scheidt	267-299-7439
Bruce W. Kauffman	Michael Beck	267-299-7449
Mary A. McLaughlin	Marion Scarengelli	267-299-7609
Petrese B. Tucker	Alisa Ross	267-299-7619
Berle M. Schiller	Christopher Campoli	267-299-7629
R. Barclay Surrick	James Finegan	267-299-7639
Legrome D. Davis	Marcella El-Shabazz	267-299-7659
Cynthia M. Rufe	Erica Pratt	267-299-7499
Michael M. Baylson	Lenora Kashner	267-299-7529
Timothy J. Savage	Harry Grace	267-299-7489
James Knoll Gardner	Teri Lefkowitz	610-434-3765
SENIOR JUDGE	COURTROOM DEPUTY	PHONE NUMBER
John P. Fullam	Rosalind Burton-Hoop	267-299-7459
Charles R. Weiner	Sheila Jeffers	267-299-7469
Clarence C. Newcomer	Michael Finney	267-299-7509
Clifford Scott Green	Michael Owens	267-299-7519
Louis H. Pollak	Donna Bozzelli	267-299-7539
Norma L. Shapiro	Madeline Ward	267-299-7549
Thomas N. O'Neill, Jr.	Charles Ervin	267-299-7559

James McGirr Kelly	Sharon Hall	267-299-7569
Marvin Katz	Elizabeth Purnell	267-299-7579
Edmund V. Ludwig	Kathryne Crispell	267-299-7589
Robert F. Kelly	Thomas Garrity	267-299-7319
Lowell A. Reed, Jr.	Harry Grace	267-299-7599
Jan E. DuBois	Michael Coyle	267-299-7339
MAGISTRATE JUDGE	COURTROOM DEPUTY	PHONE NUMBER
James R. Melinson, Ch.J.	Nancy DeLisle	215-597-5316
M. Faith Angell	Shelli MacElderry	215-597-6079
Arnold C. Rapoport	Helen Nicholas	610-776-0369
Charles B. Smith	Antoinette Wambold	215-597-0421
Diane M. Welsh	Juanita Davis	215-597-1207
Thomas J. Rueter	Lisa Tipping	215-597-0048
Carol Sandra Moore Wells	Edward Andrews	215-597-7833
Jacob P. Hart	Deborah Feters	215-597-2733
Linda K. Caracappa	Chad Piotrowski	267-299-7640
Peter B. Scuderi	Maryellen Fox	215-597-2093

XXI. STANDING ORDER RE: SENTENCING REFORM ACT OF 1984

In accordance with the resolution approved by the Judges of this court on January 19, 1988, a standing order (**Appendix U**) was adopted for use in criminal cases in which sentences are imposed under the Sentencing Reform Act of 1984 (Chapter II of the Comprehensive Crime Control Act, Public Law No. 98473, 98 Stat. 1837, 1976 (enacted October 12, 1984)).

XXII. AFTER-HOURS CONTACT FOR EMERGENCY MATTERS

A deputy clerk is on duty in the Clerk's Office each weekday from 8:00 a.m. to 5:30 p.m. Attorneys who wish to contact the United States District Court for the Eastern District of Pennsylvania during the evenings after 5:30 p.m. or on weekends may do so by calling (215) 597-1603, 597-0366, 597-0369, or toll-free number 1-800-525-5726. These numbers connect with the

office of the Federal Protective Service and the Court Security Office which is staffed 24 hours a day, 7 days a week. Attorneys who call these numbers will be referred to the clerk or a deputy clerk on duty. This service is available for attorneys who have to file an injunction, ship attachment, or other emergency business during non-business hours.

XXIII. AFTER-HOURS FILING DEPOSITORY

An After-Hours Filing Depository is provided in the lobby of the courthouse past the metal detectors and is able to receive documents for filing after 5:00 p.m. A time recorder is affixed to the depository which enables the person submitting documents for filing to note the time and date the documents are placed in the depository. If the documents are submitted after the doors are locked, access to the building may be gained by activating the buzzer adjacent to the main entrance on Market Street.

XXIV. OPINIONS/CORRESPONDENCE CLERK

Cheron Everett and Margaret Stipa are responsible for distributing the judges' opinions and answering general correspondence. They can be reached at 267-299-7048 and 267-299-7047.

We maintain civil case files for calendar years 2000 to the present year and criminal case files from 1995 to the present, in addition to all open cases, in the Clerk's Office. Files for previous years are stored at the Federal Records Center. Send a letter to the attention of the correspondence clerks specifying the case number of the file you need and the documents in which you are interested. They will obtain the file and send you a copy of the papers that you need at a cost of \$.50 per page. There is an additional fee of \$7 for a certified copy.

Any inquiries to search the index for case numbers, judgment, decrees, etc., will be handled by the correspondence clerks. The fee is \$20 per name searched.

Judicial opinions filed in the Eastern District since June 1, 1997, as well as the opinion filed in Civil Action Number 96-963, A.C.L.U. et al. v. Janet Reno, Attorney General of the U.S. and Civil Action Number 96-1458, American Library et al. v. U.S. Department of Justice, and the opinion filed in Civil Action Number 96-2486, Cyber Promotions, Inc. v. America Online, Inc. and Civil Action Number 96-5213, America Online, Inc. v. Cyber Promotions, Inc., may be obtained through the opinion section on the Eastern District of Pennsylvania's Internet website at <http://www.paed.uscourts.gov>.

XXV. HOW TO FIND A CASE NUMBER

Cases are indexed using the microfiche system, public access computers and **PACER** (see section on **PACER**). At the computers located in the Clerk's Office, you will find printed explanations on the procedure to locate a case number in order to find the docket sheet for that case. Every microfiche index is labeled with the filing time frames for each category. Information on cases filed prior to the specified time frames may be obtained from the Records Room.

XXVI. CLERK'S INDEX FILE BY NATURE OF SUIT

The Clerk's Office makes this service available at no cost. It is an Index to Civil Actions by Subject and is arranged under these main topics: Persons, Property, Contract, Torts & Other Statutes. Subject headings are exactly the same as those specified on the Civil Cover Sheet.

Refer to the Table of Contents under the appropriate main heading and find the page number on which reference is made to civil actions on the desired subject. Copy down the case number(s) shown and draw the case file jackets or docket sheets to see if the cases listed are helpful.

XXVII. COPYWORK

Adjacent to Room 2609 is the Reproduction Room. To have copies made, you must complete a request form and prepay the cost either in person or by mail.

It is possible to obtain copywork the same day. However, it depends on the urgency of the request, the quantity of work, and the time constraints of the Xerox operator.

XXVIII. RECORDS ROOM

Adjacent to the Xerox Room is the Records Room where all open case files for civil and criminal cases are maintained. In addition to all open case files, all civil files from 2000 to the present year, and all criminal cases from 1995 to the present year are located in the file room. Individual files and papers may be inspected in this area by the general public. Files are available from the Federal Records Center through our office. There is a \$35 fee for this service. If you have questions, you may contact the records room at 267-299-7082.

XXIX. CREDIT CARD COLLECTION NETWORK

In September of 1987, the Department of Treasury established a government credit card collection network to enable federal agencies to accept credit cards (Visa, MasterCard, American Express, Discover and Diners Club) for the collection of receipts due the government.

Credit cards are accepted as payment for the following transactions in the Clerk's Office:

- I. filing fees;
 - **PACER** fees;
 - copywork (docket sheets, opinions, etc.);
 - copies of ESR-taped proceedings;
 - attorney admission fees;
 - searches and certifications;
 - retrieval fees for case files maintained at the Federal Records Center;
 - arbitration fees.
- 1. **Counter Transactions.** Submit the charge card at the counter for recording, validating, and imprinting onto a bank charge slip. The amount of the charge, transaction code, date and time appear on the bank charge slip and cash register receipt. The original cash register receipt and bank charge slip are given to the customer, and the copies are kept on file in the Clerk's Office.
- 2. **Telephone Requests.** Give your name, credit card number and its expiration date to the Clerk's office receptionist. Your requested work will be returned to you with a cash register receipt and a bank charge slip, which will have the words "TELEPHONE REQUEST" inserted in the signature block.
- 3. **Mail Requests.** The following information must be provided in your request letter: credit card number, expiration date, and specified amount to be charged. The letter must be signed by the same person whose signature appears on the credit card. You will receive a cash register receipt and a bank charge slip, which will have the words "MAIL REQUEST" inserted in the signature block.

For those law firms which are concerned with the safekeeping of the actual credit card, the Clerk's Office will issue numbered identification cards bearing the firm's credit card number, expiration date, and the signature of one of the firm's partners. These cards will be issued after completion of an authorization form (**Appendix V**). The courier will simply show this card to the

cashier and the transaction will be processed. On the bank charge slip, "AUTHORIZATION ON FILE" would appear in the signature block.

XXX. DEPOSITING/WITHDRAWING MONIES

The Fiscal Department is responsible for coordinating all financial transactions involving the district court. All court-related fees are paid and disbursements made through this department. In order to deposit or withdraw monies from the registry, you must submit a proposed order. Please call John Zingo, the Financial Manager, at 267-299-7106 with any questions on this procedure.

A. Deposits

All checks should be made payable to "**Clerk, U.S. District Court**". This is the only form of check that will be accepted. It is recommended that all deposits made into the registry of the court for subsequent disbursement be accomplished by a treasurers' check or a certified check in order to allow for prompt disbursement.

B. Registry Fund, Deposit Fund, Interest-Bearing Accounts

Disbursements are made from the registry fund upon order of the court only. The case docket is reviewed to determine if disbursement is appropriate, then the financial ledger sheet is pulled from the registry binder and compared with the court order. A voucher is prepared by the financial deputy and a check is drawn and mailed to the payee.

As a result of a new appropriation authority approved by the Judicial Conference, a fee in the amount of 10% of the annual interest has been established to cover the costs to the Judiciary for handling registry funds placed in interest-bearing accounts. The fee shall apply to all money and property held in the Court's registry and invested in interest-bearing accounts, except unclaimed monies held in accounts for individuals or persons whose whereabouts are unknown. Assessment of this fee will commence on all case payments (withdrawals) from the registry of the Court made on or after December 1, 1988. However, fees will be assessed only for the holding of funds after September 30, 1988. As to previously existing accounts, September 30 will be considered the original date of deposit with respect to the starting case balance and the number of days held. The fee will be computed at the time of withdrawal from the date of receipt into the registry through the date of withdrawal based on the average daily balance in the account. Payment of the fee will be deducted from the balance on deposit at the time of distribution.

Disbursements from the deposit fund, i.e., court-appointed counsel fees, are accomplished by preparing a voucher and forwarding it to the certifying officer. When the certified voucher is returned, a check is drawn on the voucher and mailed to the payee.

Upon order of the court, an interest-bearing account is closed with the local bank and deposited into the registry fund as a bank transfer. A U.S. Treasury check is drawn and handled the same as a registry disbursement.

XXXI. **FINES**

Fine payments received through the mail are checked for the case number. If the individual is on probation, the receipt for payment is processed and sent to the Probation Office to credit the proper account. If the individual is not on probation, the payment is checked against the Case Master File to assure the proper amount is received without any overpayment. Overpayment is discouraged and the Probation Office is made aware of overpayment and asked to have the correct amount resubmitted. When it is impossible to have the check reissued for the correct amount, the overpayment is deposited into the Deposit Fund and disbursed at a later time to the probationer.

After the payments are verified as correct, a receipt is issued. The money is deposited into the U.S. Treasury (General and Special Fund) and postal fines are deposited into the deposit fund and disbursed quarterly. The original receipts are forwarded to the Probation Office.

Fines to be paid in person are sent to the Fiscal Department, where the Fine Case Account is checked. The financial deputy fills out a form indicating the case caption and number, the account number (FUND), and the amount to be paid. The form is given to the individual, who is sent to the cashier for issuance of a receipt.

Fines received from the Probation Office are hand-delivered by probation personnel. If the fine is a first payment, a letter is attached stating the defendant's name, case number, and the amount to be paid. The criminal or magistrate docket is checked to obtain the total amount and a new account is set up on the automated financial system. If a check is made payable to the U.S. Probation Office, it can be endorsed by the Chief Probation Officer or Chief Deputy Probation officer only.

If there was a prior payment, the Probation Office attaches a card with the payment, indicating the case number.

XXXII. CENTRAL VIOLATIONS BUREAU (CVB)

In the district courts, the CVB provides a case management system for petty offenses (and some misdemeanors) which originate with the filing of a violation notice sent by the issuing government agency directly to the CVB. If collateral is forfeited to the CVB within the specified time, the date and amount is entered and the case is closed. In cases which are not disposed of through forfeiture of collateral, the CVB schedules a hearing before a Magistrate Judge, notifies the defendant, and records the Magistrate Judge's disposition of the case.

XXXIII. BAIL BONDS

A. Determination by the Court

Bail is generally set by the court from one of the following categories:

1. **Own Recognizance** - In this instance, the defendant signs an Appearance Bond in the amount fixed by the court without posting any security.
2. **In An Amount Equal to 10% of Total Amount of Bond** - In this instance, the defendant or someone on their behalf deposits 10% of the amount of the bond. If it is the defendant's cash, only the defendant signs the appearance bond. If it is the surety's cash, then both must sign. Local Civil Rule 67.1(a) states that "no attorney, or officer of this court shall be acceptable as surety bail, or security of any kind in any proceeding in this court."
3. **In An Amount with Good Security** - In this instance, both the defendant and the surety must sign the appearance bond with acceptable security being posted. Security may be one of the following:
 - **cash** - only cash, certified or cashiers check, or money order are acceptable;
 - **corporate surety** - with power of attorney;
 - **individual sureties - Real Estate** - explained on sample form "Bail Bond Secured by Property or Real Estate Bail" (**Appendix W**);

- **securities** - only negotiable securities are acceptable.

XXXIV. **ATTORNEY ADMISSIONS**

Applications for admission to the bar of our court for those attorneys who are currently members in good standing of the bar of the Supreme Court of Pennsylvania pursuant to Local Rule of Civil Procedure 83.5(a) may be obtained at the front counter of the Clerk's Office. Admission ceremonies are held once a week. The fee for attorney admission is \$75.00. There is a \$15.00 fee for a duplicate certificate of admission or certificate of good standing. For further information on attorney admissions, call Aida Ayala, the attorney admissions clerk at 267-299-7099.

Pursuant to Local Rule of Civil Procedure 83.5.2(b), for attorneys who are not currently admitted to either the bar of this court or the bar of the Supreme Court of Pennsylvania shall not actively participate in the conduct of any trial or pre-trial or post-trial proceeding before this court unless, upon motion of a member of the bar of this court containing a verified application, leave to do so is granted (**Appendix X**). A \$40 fee is assessed for such admissions.

XXXV. **COURT REPORTING/RECORDING SERVICES**

Orders for transcripts produced by court reporters can be accomplished through the Court Reporter Supervisor, Joan Carr (267-299-7104), by means of a Transcript Purchase Order Form (**Appendix Y**).

Orders for transcript produced by electronic sound recording can be accomplished through the ESR Coordinator, Michael Hearn (267-299-7039) by means of a Transcript Purchase Order Form (**Appendix Y**). Orders for tapes produced by ESR can be accomplished by means of the Tape Order Form (**Appendix Z**).

XXXVI. **VIDEOTAPE SERVICES**

The Clerk's Office has a videotape studio for the taking of depositions of witnesses. To request videotaping of witnesses, contact Edward Morrissy at 267-299-7044. There is no charge for the use of the videotape facility, but counsel is required to supply the necessary videotapes.

Counsel is required to give notice to the opposing party as to their intention to utilize the videotape procedure.

XXXVII. VIDEO TELECONFERENCING

On June 1, 1995 the Eastern District of Pennsylvania started a video teleconferencing pilot program sponsored by the United States Marshal Service and the Federal Bureau of Prisons. This program establishes a closed circuit television link between the United States District Court in Philadelphia and the Federal Correctional Institute at Fairton, New Jersey. VTC proceedings between Philadelphia and Fairton take place in Courtroom 5A. In May 1998, this program was expanded to include links between the District Court and State Correctional Institutions, including Graterford, Greene and Camp Hill; Courtroom 5D is equipped for service to these facilities. The program allows criminal defendants incarcerated at these institutions to fully participate in court appearances, interviews and conferences. The equipment and facilities are also available to the Office of Pretrial Services, the United States Probation Office, the Federal Defender, the United States Attorney, and the defense bar when not in use by the Court. All requests to use the VTC equipment for conferences are to be submitted to the VTC Coordinator who may be reached at 267-299-7039.

The VTC program has not been limited to only cases in which defendants are incarcerated. For visiting judge cases in which judges of this court sit by designation in Middle or Western District Court cases, this program has been successfully utilized to conduct conferences between this court and counsel from outside districts which are similarly equipped with VTC equipment. For further information on this service, contact the VTC Coordinator.

XXXVIII. COURTROOMS OF THE FUTURE

Several courtrooms provide an array of technical components that support evidence presentation, remote site interactions, language interpreting and audio enhancement. The state-of-the-art technologies include assisted listening systems, integrated court interpreting systems, video teleconferencing systems, document/video presentation systems, evidence trolleys, annotation pads, document cameras, as well as connectivity at counsel tables for use with court- or attorney- provided PCs. The court welcomes the bar to make use of these technologies and training is available at the courthouse. For further information, contact Joseph Rodgers at 267-299-7037 or Michael Hearn at 267-299-7039.

XXXIX. INTERPRETERS' SERVICES

Effective September 1, 1997, the Clerk's Office became responsible for scheduling interpreters for all criminal proceedings and for all civil cases initiated by the government. The

interpreter coordinator, Larry Bowman (267-299-7029) will schedule all interpreters required for court appearances.

Once the need for an interpreter has been established, the courtroom deputy to the assigned judge will be responsible for notifying the interpreter coordinator of all court proceedings requiring the use of an interpreter.

XL. JURY SELECTION

The jury section is responsible for selecting and maintaining a pool of citizens qualified to serve as grand and petit jurors in this district and summoning these individuals for jury service. Jurors are selected pursuant to the Plan of the Random Selection of Grand and Petit Jurors of 1968 for the Eastern District of Pennsylvania. A copy of this plan is available for inspection in the Office of the Clerk of Court. The jury section is also responsible for preparation of vouchers and documentation required to reimburse jurors for their service.

A. Term of Jury Service

In our district, jurors are called for either a two-day/one trial term of service each Monday or a three-day/one trial term of service on Wednesdays. If selected for a case where the trial extends beyond one week, jurors are required to serve until the completion of the trial.

B. Excuse from Jury Service on Request

In addition to members of groups and occupational classes subject to excuse from jury service pursuant to 28 U.S.C. §§ 1863(b)(5) and (7), any person summoned for jury service may, on request, be excused temporarily by a judge of this court. The person must show undue hardship or extreme inconvenience by reason of great distance, either in miles or travel time, from the place of holding court, grave illness in the family or any other emergency which outweighs in urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror. Additionally, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service.

The period for which such prospective jurors may be excused shall be the period of time which the judge deems necessary under the circumstances, which shall be fixed in the order granting

the excuse. At the expiration of the period so fixed, such persons shall be summoned again for jury service within a reasonable time.

C. Payment

Jurors receive \$40 for each day in attendance, plus 36 cents per mile as measured from their residence to the courthouse (round trip). The court calculates the computation of this fee. If a juror lives more than 50 miles from the courthouse and remains overnight, the juror will be reimbursed for room and living expenses. Subsistence allowance is \$174 per night in Philadelphia, \$96 per night in Allentown, and \$103 per night in Easton. If you have any questions regarding jury matters, you may call 267-299-7299.

XLI. INCLEMENT WEATHER

In the event of inclement or otherwise extreme weather conditions, the public is urged to call the court's **Code-A-Phone** line for a special announcement on whether the courthouse will be closed or if trials have been canceled for that day. A recorded message on the toll-free number **1-800-829-0189** will be accessible from about 5:30 a.m. Attorneys and jurors are requested to call this number before leaving their office or residence to attend court. It is also suggested that the public tune into radio and television news stations, which will also broadcast announcements if jury trials have been adjourned or if the courthouse will be closed for that day. If no announcement is made by 6:00 a.m. and there is no special message on the recording, it should be assumed that court will be in session and jurors are to report for jury duty as scheduled.

XLII. PACER - PUBLIC ACCESS TO COURT ELECTRONIC RECORDS

The **PACER** system provides improved access to court records for attorneys and other members of the public. This electronic access system allows any member of the public to access information contained in the court's civil/criminal docket database via modem. The user dials in from a remote terminal to the court's **PACER** system and is able to access a search of information either through a case name or a case number and can request docket reports. The information is either saved on the user's PC terminal or the report is printed during online access.

All civil cases filed since July 1, 1990 and all criminal cases filed since July, 1992 are contained on the **PACER** system. In addition, the **PACER** system will allow an end-user to check recent activity. If there has been no recent activity, the **PACER** system will confirm that fact in

seconds.

The **PACER** system is available 24 hours a day, 7 days a week. The **PACER** system runs on its own personal computer system, providing users with faster service. Case filings and updates to the docket appear on the **PACER** system the day after they are entered.

The Eastern District of Pennsylvania **PACER** system is administered by the **PACER** Service Center. The center provides all support services as well as billing services for **PACER** access.

Many Eastern District of Pennsylvania **PACER** users are already registered with the **PACER** Service Center for access to **PACER** systems throughout the federal court system. If you are currently registered with the **PACER** Service Center, please call the center at 1-800-676-6856 to add the Eastern District of Pennsylvania to your account.

If you are not registered with the center, complete a **PACER** Registration Form (**Appendix AA**) available on the court's website at <http://www.paed.uscourts.gov> and forward it to the **PACER** Service Center, P.O. Box 780549, San Antonio, TX 78278-0549, or fax it to (201) 301-6441, or a completed application may be submitted via e-mail. The address for **PACER** is <https://ecf.paed.uscourts.gov>. Users may access **PACER** by using their **PACER** login and password. The fee for accessing **PACER** is \$.07 per page.

Should you have any questions concerning **PACER** service or registration, please contact the center at (800) 676-6856.

XLIII. INTERNET WEBSITE

Information on multiple services and all judicial opinions filed since June 1, 1997 in the United States District Court for the Eastern District of Pennsylvania, as well as e-mail capabilities are available on the Internet at <http://www.paed.uscourts.gov>. The site contains the following:

- All judicial opinions filed since June 1, 1997, including a recent opinions section;
- E-mail capabilities with the Office of the Clerk of Court;
- Directory of automated services (**Appendix BB**);
- Local civil, criminal and bankruptcy rules;
- Court notices;
- Electronic Case Filing;

- U.S. Magistrate Judge application form;
- Report of cases specially listed for U.S. District Court and surrounding county courts;
- Multidistrict litigation information;
- Criminal documents;
- Frequently asked questions;
- Clerk's Office Procedural Handbook containing information on: filing civil actions/documents, general motion practice and pretrial procedures, fees, judicial chambers information (phone numbers, addresses, staff), forms (appendices), Clerk's Office directory, appeals, bill of costs and after hours filing;
- Telephone directory and address information;
- Software to access the Judicial Schedule of Trials - Automated System Inquiry (JUST-ASK);
- Search capabilities;
- Link to **PACER**;
- Judicial policies and procedures;
- Juror information;
- Federal holidays;
- Arbitrator applications.

XLIV. LOCAL RULES

The local rules of court -- civil, criminal, admiralty, and bankruptcy -- are available from the Clerk's Office, and also on the Internet at <http://www.paed.uscourts.gov>. Inquiries should be directed to Aida Ayala, 267-299-7099, Room 2625.

XLV. CELL PHONES AND PUBLIC TELEPHONE LOCATIONS

Effective May 1, 2003, attorneys are permitted to carry cell phones into the courthouse, but all cell phones will be subject to x-ray and visual inspection by the Court Security Officers at the security screening station. All cell phones must be turned off before entering courtrooms and chambers, unless otherwise authorized by the presiding judge. Failure to follow this restriction may result in sanctions by the judge.

While cell phones are permitted in the courthouse, there are also numerous pay telephones available for use by the public located on every floor of the building, except on the 21st and 22nd

floors. A directory of public telephone locations and numbers follows.

DIRECTORY OF PUBLIC TELEPHONE LOCATIONS

U.S. Courthouse
Philadelphia, PA

FLOOR	TELEPHONE #	LOCATION OF PHONE
Lobby	215-922-8886	Hallway adjacent to public elevators
Lobby	215-922-8668	Hallway adjacent to public elevators
Lobby	215-922-8673	Hallway adjacent to public elevators
Lobby	215-922-8683	Hallway adjacent to public elevators
Lobby	215-922-8682	Hallway adjacent to public elevators
Lobby	215-922-8671	Hallway adjacent to public elevators
2nd Floor	215-922-8048	Adjacent to public elevators
3rd Floor	215-922-8690	Hallway adjacent to secured corridor
4th Floor	215-922-8797	Hallway adjacent to secured corridor
4th Floor	215-922-8796	Hallway adjacent to secured corridor
5th Floor	215-922-8798	Hallway adjacent to secured corridor
5th Floor	215-922-8855	Hallway adjacent to secured corridor
6th Floor	215-922-8863	Hallway adjacent to secured corridor
6th Floor	215-922-8860	Hallway adjacent to secured corridor
7th Floor	215-922-8870	Hallway adjacent to secured corridor
7th Floor	215-922-8864	Hallway adjacent to secured corridor
8th Floor	215-922-8874	Hallway adjacent to secured corridor
8th Floor	215-922-8873	Hallway adjacent to secured corridor
9th Floor	215-922-8728	Hallway adjacent to secured corridor
10th Floor	215-922-8987	Hallway adjacent to secured corridor
10th Floor	215-922-8882	Hallway adjacent to secured corridor
11th Floor	215-922-8883	Hallway adjacent to secured corridor
11th Floor	215-925-8884	Hallway adjacent to secured corridor
12th Floor	215-922-9199	Hallway adjacent to secured corridor
12th Floor	215-922-9193	Hallway adjacent to secured corridor
13th Floor	215-922-9222	Hallway adjacent to secured corridor
13th Floor	215-922-9203	Hallway adjacent to secured corridor

DIRECTORY OF PUBLIC TELEPHONE LOCATIONS

U.S. Courthouse
Philadelphia, PA

FLOOR	TELEPHONE #	LOCATION OF PHONE
14th Floor	215-922-9315	Hallway adjacent to secured corridor
14th Floor	215-922-9335	Hallway adjacent to secured corridor
15th Floor	215-922-9431	Hallway adjacent to secured corridor
15th Floor	215-922-9437	Hallway adjacent to secured corridor
16th Floor	215-922-9459	Hallway adjacent to secured corridor
16th Floor	215-922-9480	Hallway adjacent to secured corridor
17th floor	215-922-9491	Hallway adjacent to secured corridor
17th Floor	215-922-9488	Hallway adjacent to secured corridor
18th Floor	215-922-9335	Hallway adjacent to secured corridor
19th Floor	215-922-9542	South end of hallway
20th Floor	215-922-9551	Hallway adjacent to secured corridor

April 2003

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
CLERK'S OFFICE LIST**

INFORMATION DESK - Suzy Torres - 215-597-7704

CLERK OF COURT

Michael E. Kunz 215-597-9221

Miriam Coco, Secretary 267-299-7085
Linda Lewandowski 267-299-7086

**PRO SE LAW HABEAS
CORPUS CLERK**

Kevin Dunleavy 267-299-7087

STAFF ATTORNEY

Ken Wilson 267-299-7088

HUMAN RESOURCES

Human Resources Administrator

Donna Diaz 267-299-7089

Personnel Specialists

Frederick Druding, Jr. 267-299-7090
Deana Drobonick 267-299-7091

ASSISTANT JUDICIAL SECRETARY

Nancy Held 267-299-7094

PRO SE LAW CLERK

Elaine Battle 267-299-7034
William Buckley 267-299-7033

OPERATIONS CHIEF DEPUTY

Joseph Rodgers 267-299-7037

**ADMINISTRATIVE SERVICES
MANAGER**

Thomas Clewley 267-299-7036

**ASSISTANT ADMINISTRATIVE
SERVICES MANAGER**

Joseph Hartnett 267-299-7038

**ELECTRONIC SOUND RECORDING
COORDINATOR**

Michael Hearn 267-299-7039

ESR OPERATORS

Ian Broderick 267-299-7121
Michael DelRossi 267-299-7043
Anne Fuhrman 267-299-7042
David Hayes 267-299-7041
Jerry LaRosa 267-299-7129
Joseph Matkowski 267-299-7131
Edward Morrissey 267-299-7044
Peggy Rosser 267-299-7045
Carol Sampson 267-299-7046
Anthony Tumminello 610-252-6522
Raymond Wolf 267-299-7101
Kris Yerry 610-434-3896

VIDEOTAPE OPERATORS

Michael Hearn 267-299-7039
Edward Morrissey 267-299-7044

**COURTROOM DEPUTY
SUPERVISORS**

Stephen Iannacone 267-299-7349
Donna Bozzelli 267-299-7539

COURTROOM DEPUTY CLERKS

Margaret Gallagher - JG 267-299-7309
Sharon Hall - JK 267-299-7569
Elizabeth Purnell - MK 267-299-7579
Dennis Hartman - FVA 610-252-7548
Eileen Adler - SD 267-299-7399
Angela Mickie - JCJ 267-299-7419
Marion Scarengelli - MAM 267-299-7609
Michael Coyle - JED 267-299-7339
Sheila Jeffers - CW 267-299-7469
Edward Polinski - WD 215-597-2535

COURTROOM DEPUTY CLERKS

Michael Owens - CG 267-299-7519
 Alisa Ross - PBT 267-299-7619

COURTROOM DEPUTY CLERKS/ESR OPERATORS

Madeline Ward - NS 267-299-7549
 Charles Ervin - TON 267-299-7559
 Kathryne Crispell - EL 267-299-7589
 Thomas Garrity - RK 267-299-7319
 Harry Grace - TJS 267-299-7599
 Steve Iannacone - HH 267-299-7349
 Matthew Higgins -RB 267-299-7369
 Thomas McCann - WY 267-299-7379
 Katherine Gallagher - HB 267-299-7389
 Andrea Mack - JP 267-299-7409
 Constantine Flores - ER 267-299-7429
 James Scheidt - AB 267-299-7439
 Michael Beck - BWK 267-299-7449
 Christopher Campoli - BMS 267-299-7629
 James Finegan - RBS 267-299-7639
 Rosalind Burton-Hoop - JF 267-299-7459
 Michael Finney - CN 267-299-7509
 Donna Bozzelli - LP 267-299-7539
 Marcella El-Shabazz - LDD 267-299-7659
 Erica Pratt - CMR 267-299-7499
 Lenora Kashner - MMB 267-299-7529
 Teri Lefkowitz - JKG 610-434-3765

SECRETARY/COURTROOM DEPUTY CLERKS

Lisa Brady 267-299-7158
 Catherine Luongo 267-299-7168
 Judy Mack 610-320-5097

MAGISTRATE JUDGES DEPUTY CLERKS

Nancy DeLisle - JRM 215-597-7669
 Shelli MacElderry - MFA 267-299-7671
 Helen Nicholas - ACR 610-776-0369
 Toni Wambold - CBS 267-299-7681
 Juanita Davis - DMW 267-299-7691
 Lisa Tipping - TJR 267-299-7701
 Edward Andrews - CSMW 267-299-7771
 Deborah Feters - JPH 267-299-7721

MAGISTRATE JUDGES DEPUTY CLERKS

Maryellen Fox - PBS 267-299-7741
 Chad Piotrowski - LKC 267-299-7641

RECEIVABLE CHECKS

Mary Cotter 267-299-7113

OPINION/CORRESPONDENCE CLERKS

Cheron Everett 267-299-7048
 Margaret Stipa 267-299-7047

JURY SELECTION

Main Number 267-299-7299
 Elizabeth Cleek 267-299-7049
 Jean Conboy 267-299-7050
 Carolanne Goss 267-299-7077
 Jo-Anne Hohenstein 267-299-7076
 Paul Lombardi 267-299-7078
 Marilou Masters 267-299-7079
 Marilyn Pieczkolon 267-299-7080
 AnnaMarie Prudente 267-299-7081

FILE/MAIL METERING CLERKS

Gregg Keller-Supervisor 267-299-7083
 Sharif Lacey 267-299-7082
 Nelson Malave 267-299-7082
 Timothy Moore 267-299-7082
 Gregg Swierczynski 267-299-7082
 Brian Weissman 267-299-7082

XEROX OPERATOR

Paul Schmidt 267-299-7084

ADMINISTRATIVE SERVICES CLERKS**Property & Procurement Administrator**

Michael Sienkiewicz 267-299-7030

Telecommunications Specialist

Richard Struble 267-299-7100

GSA Liaison

Michael Hutelmyer 267-299-7095

Property & Procurement Assistant

Trevor McDermott 267-299-7096
 Jon Montovani-Supplies 267-299-7142
 Charles Parkinson 267-299-7144

Lori Stutz 267-299-7098
**NATURALIZATION/ATTORNEY
ADMISSIONS**

Aida Ayala 267-299-7099
Janet Puderbach 267-299-7102

INTERPRETER COORDINATOR

Larry Bowman 267-299-7029

**ADMINISTRATIVE & SYSTEMS
CHIEF DEPUTY**

Marlene McHugh Anderson 267-299-7032

FISCAL

Financial Manager

John Zingo 267-299-7106

Financial Officer

Joseph Hall 267-299-7107

Voucher/Disbursements

Maria Mondelli 267-299-7108

Terryl Richardson 267-299-7109

CJA Vouchers

Peter Mordeczko 267-299-7110

Financial Assistant

Zachary Robinson 267-299-7111

BUDGET ANALYSTS

Lucy Chin 267-299-7112

Joseph Hall 267-299-7107

SYSTEMS MANAGER

Susan Matlack 267-299-7051

ASSISTANT SYSTEMS MANAGER

Mark Boraske 267-299-7052

ICMS SYSTEMS ADMINISTRATOR

Dan De Cerchio 267-299-7055

ANALYST

Mary Grace O'Connor 267-299-7066

P.C. SYSTEMS COORDINATOR

Charles O'Donnell 267-299-7053

P.C. AUTOMATION SUPPORT

SPECIALIST

Dan DeLuca 267-299-7054

DEPOT MAINTENANCE TECHNICIAN

Daniel Baback 267-299-7153

Omar Lee 267-299-7154

**AUTOMATION SUPPORT
SPECIALIST**

James McGovern 267-299-7059

DATA QUALITY ANALYSTS

Raymond Gilchrist 267-299-7057

Linda Martinez-Morales 267-299-7069

Sean O'Connor 267-299-7056

Gail Olson 267-299-7060

Karen Vample 267-299-7061

JoAnn Venuto 267-299-7149

SYSTEMS ANALYST PROGRAMMER

Ronald Sochanski 267-299-7065

**WORDPERFECT TRAINING
COORDINATOR**

William Jones 267-299-7063

SPEEDY TRIAL COORDINATOR

Anne Rea 267-299-7022

STATISTICAL CLERK

Nicole Toscano 267-299-7058

**CASE OPENING/ARBITRATION and
MEDIATION SUPERVISOR**

Sherry Bowman 267-299-7067

**CASE OPENING/ARBITRATION
CLERKS**

#1-2 Tashia Irving 267-299-7071

#3-4 Patricia Jones 267-299-7072

#5-6 Crystal Wardlaw 267-299-7073

#7-8 Steve Sonnie 267-299-7074

#9-0 Adrienne Mann 267-299-7075

Inna Yukhananov 267-299-7068

OPERATIONS MANAGER

Mary Chase 267-299-7012

ASSISTANT OPERATIONS MANAGER

Richard Sabol 267-299-7011

CASE PROCESSING SUPERVISORS

Theresa Milano 267-299-7013

Jane Firestone 267-299-7014

CASE PROCESSING CLERKS

#1 Patricia Horning 267-299-7001

#2 Christine Demniansky 267-299-7002

#3 James Deitz 267-299-7003

#4 Ronald Vance 267-299-7004

#5 Kimberly Williams 267-299-7005

#6 Michele Helmer 267-299-7006

#7 Joseph Lavin 267-299-7007

#8 Gayle Norman 267-299-7008

#9 Ann Murphy 267-299-7009

#10 Frank DelCampo 267-299-7010

Michele DiNapoli 267-299-7147

Velma White 267-299-7062

Frances Hernandez 267-299-7146

APPEALS CLERK

Kevin Eibel 267-299-7015

ASBESTOS CLERK

Joyce Yaworski 267-299-7016

**MDL/CASE PROCESSING
COORDINATORS**

Sharon Carter 267-299-7019

Nicole Picariello 267-299-7017

Linda Jerry 267-299-7026

CRIMINAL DOCKETING CLERKS

#1-3 Dennis Taylor 267-299-7160

#4-6 James Hamilton 267-299-7024

#7-9 Kevin Eibel 267-299-7035

#0 Jimmy Cruz 267-299-7145

Carlos Cardona 267-299-7023

PRO SE WRIT CLERK

Andrew Follmer 267-299-7021

PRISONER DOCKET CLERKS

#1-5 Fernando Benitez 267-299-7025

#6-0 Linda Jerry 267-299-7026

ASSIGNMENT CLERKS

Thomas Dempsey 267-299-7027

Mark Ciamaichelo 267-299-7028

**COURT REPORTER & RECORDER
ADMINISTRATOR**

Phyllis Frazier 267-299-7103

**SUPERVISOR OF COURT
REPORTERS**

Joan Carr 267-299-7104

OFFICIAL COURT REPORTERS

Philip Feldman 215-925-6951

Joel Gerstenfeld 215-925-4655

Paul McGowan 215-925-1918

Nancy O'Neill 215-592-4707

Sidney Rothschild 215-627-0184

Suzanne White 215-627-1882

Gregg Wolfe 215-925-6409

COMPUTER ROOM 267-299-7070

ALLENTOWN OFFICE

Michael E. Kunz, Clerk of Court

U.S. District Court, ED of PA

504 W. Hamilton Street, Suite 1601

Allentown, PA 18101-1500

Evelyn Renner 610-434-3896

Kris Yerry 610-434-3896

Adler, Eileen	267-299-7399	Diaz, Donna	267-299-7089
Anderson, Marlene McHugh	267-299-7032	DiNapoli, Michele	267-299-7147
Andrews, Edward	267-299-7771	Drobonick, Deana	267-299-7091
Ayala, Aida	267-299-7099	Druding, Jr., Frederick	267-299-7090
		Dunleavy, Kevin	267-299-7087
Baback, Daniel	267-299-7153		
Battle, Elaine	267-299-7034	Eibel, Kevin	267-299-7015
Beck, Michael	267-299-7449	El-Shabazz, Marcella	267-299-7659
Benitez, Fernando	267-299-7025	Ervin, Charles	267-299-7559
Biedrzycki, Carol	267-299-7029	Everett, Cheron	267-299-7048
Boraske, Mark	267-299-7052		
Bowman, Larry	267-299-7035	Feldman, Philip	215-925-6951
Bowman, Sherry	267-299-7067	Fetters, Deborah	267-299-7721
Bozzelli, Donna	267-299-7539	Finegan, James	267-299-7639
Brady, Lisa	267-299-7158	Finney, Michael	267-299-7509
Broderick, Ian	267-299-7121	Firestone, Jane	267-299-7014
		Flores, Constantine	267-299-7429
Buckley, William	267-299-7033	Follmer, Andrew	267-299-7021
Burton-Hoop, Rosalind	267-299-7459	Fox, Maryellen	267-299-7741
		Frazier, Phyllis	267-299-7103
		Fuhrman, Anne	267-299-7042
Campoli, Christopher	267-299-7629		
Cardona, Carlos	267-299-7023	Gallagher, Katherine	267-299-7389
Carr, Joan	267-299-7104	Gallagher, Margaret	267-299-7309
Carter, Sharon	267-299-7019	Garrity, Thomas	267-299-7319
Chase, Mary	267-299-7012	Gerstenfeld, Joel	215-925-4655
Chin, Lucy	267-299-7112	Gilchrist, Raymond	267-299-7057
Ciamaichelo, Mark	267-299-7028	Goss, Carolanne	267-299-7077
Cleek, Elizabeth	267-299-7049	Grace, Harry	267-299-7599
Clewley, Thomas	267-299-7036		
Coco, Miriam	267-299-7085	Hall, Joseph	267-299-7107
Conboy, Jean	267-299-7050	Hall, Sharon	267-299-7569
Cotter, Mary	267-299-7113	Hamilton, James	267-299-7024
Coyle, Michael	267-299-7339	Hartman, Dennis	610-252-7548
Crispell, Kathrynne	267-299-7589	Hartnett, Joseph	267-299-7038
Cruz, Jimmy	267-299-7145	Hayes, David	267-299-7041
		Hearn, Michael	267-299-7039
Davis, Juanita	267-299-7691	Held, Nancy	267-299-7094
De Cerchio, Dan	267-299-7055	Helmer, Michele	267-299-7006
Deitz, James	267-299-7003	Hernandez, Frances	267-299-7146
DelCampo, Frank	267-299-7010	Higgins, Matthew	267-299-7369
DeLisle, Nancy	215-597-7669	Hohenstein, Jo-Anne	267-299-7076
DelRossi, Michael	267-299-7043	Horning, Patricia	267-299-7001
DeLuca, Dan	267-299-7054	Hutelmyer, Michael	267-299-7095
Demniansky, Christine	267-299-7002		
Dempsey, Thomas	267-299-7027	Iannacone, Stephen	267-299-7349

Irving, Tashia	267-299-7071	O'Connor, Sean	267-299-7056
		O'Donnell, Charles	267-299-7053
Jeffers, Sheila	267-299-7469	Olson, Gail	267-299-7060
Jerry, Linda	267-299-7026	O'Neill, Nancy	215-592-4707
Jones, William	267-299-7063	Owens, Michael	267-299-7519
Jones, Patricia	267-299-7072		
		Parkinson, Charles	267-299-7144
Kashner, Lenora	267-299-7529	Picariello, Nicole	267-299-7017
Keller, Gregg	267-299-7083	Pieczkolon, Marilyn	267-299-7080
Kunz, Michael E.	215-597-9221	Piotrowski, Chad	267-299-7641
		Polinski, Edward	215-597-2535
Lacey, Sharif	267-299-7082	Pratt, Erica	267-299-7499
LaRosa, Jerry	267-299-7129	Prudente, AnnaMarie	267-299-7081
Lavin, Joseph	267-299-7007	Puderbach, Janet	267-299-7102
Lee, Omar	267-299-7154	Purnell, Elizabeth	267-299-7579
Lefkowitz, Teri	610-434-3765		
Lewandowski, Linda	267-299-7086	Rea, Anne	267-299-7022
Lombardi, Paul	267-299-7078	Renner, Evelyn	610-434-3896
Luongo, Catherine	267-299-7168	Richardson, Terry	267-299-7109
		Robinson, Zachary	267-299-7111
MacElderry, Shelli	267-299-7671	Rodgers, Joseph	267-299-7037
Mack, Andrea	267-299-7409	Ross, Alisa	267-299-7619
Mack, Judy	610-320-5097	Rosser, Peggy	267-299-7045
Malave, Nelson	267-299-7082	Rothschild, Sidney	215-627-0184
Mann, Adrienne	267-299-7075		
Martinez-Morales, Linda	267-299-7069	Sabol, Richard	267-299-7011
Masters, Marilou	267-299-7079	Sampson, Carol	267-299-7046
Matkowski, Joseph	267-299-7131	Scarengelli, Marion	267-299-7609
Matlack, Susan	267-299-7051	Scheidt, James	267-299-7439
McCann, Thomas	267-299-7379	Schmidt, Paul	267-299-7084
McDermott, Trevor	267-299-7096	Sienkiewicz, Michael	267-299-7030
McGovern, James	267-299-7059	Sochanski, Ronald	267-299-7065
McGowan, Paul	215-925-1918	Sonnie, Steve	297-299-7074
Mickie, Angela	267-299-7419	Stipa, Margaret	267-299-7047
Milano, Theresa	267-299-7013	Struble, Richard	267-299-7100
Mondelli, Maria	267-299-7108	Stutz, Lori	267-299-7098
Montovani, Jon	267-299-7142	Swierczynski, Gregg	267-299-7082
Moore, Timothy	267-299-7082		
Mordeczko, Peter	267-299-7110	Taylor, Dennis	267-299-7160
Morrissy, Edward	267-299-7044	Tipping, Lisa	267-299-7701
Murphy, Ann	267-299-7009	Torres, Suzzy	215-597-7704
		Toscano, Nicole	267-299-7058
Nicholas, Helen	610-776-0369	Tumminello, Anthony	610-252-6522
Norman, Gayle	267-299-7008		
		Vample, Karen	267-299-7061
O'Connor, Mary Grace	267-299-7066	Vance, Ronald	267-299-7004

Venuto, JoAnn	267-299-7149
Wambold, Toni	267-299-7681
Ward, Madeline	267-299-7549
Wardlaw, Crystal	267-299-7073
Weissman, Brian	267-299-7082
White, Suzanne	215-627-1882
White, Velma	267-299-7062
Williams, Kimberly	267-299-7005
Wilson, Ken	267-299-7088
Wolf, Raymond	267-299-7101
Wolfe, Gregg	215-925-6409
Yaworski, Joyce	267-299-7016
Yerry, Kris	610-434-3896
Yukhananov, Inna	267-299-7068
Zingo, John	267-299-7106

LIST OF APPENDICES

APPENDIX A	PROCEDURAL ORDER ON ELECTRONIC CASE FILING
APPENDIX B	.pdf FILE INFORMATION
APPENDIX C	FORMAT OF DOCUMENTS IN ELECTRONIC FORM, LOCAL RULE 5.1.4
APPENDIX D	ELECTRONIC CASE FILING ACCOUNT REGISTRATION FORM
APPENDIX E	ELECTRONIC CASE FILING TRAINING REGISTRATION
APPENDIX F	DESIGNATION FORM
APPENDIX G	DISCLOSURE STATEMENT FORM
APPENDIX H	CIVIL COVER SHEET
APPENDIX I	CIVIL CASE MANAGEMENT TRACK DESIGNATION FORM
APPENDIX J	MODIFICATION OR REDACTION OF PERSONAL IDENTIFIERS, LOCAL RULE 5.1.3
APPENDIX K	CONSENT TO FACSIMILE TRANSMISSION OF NOTICES OF ORDERS
APPENDIX L	MAIL INFORMATION FORM
APPENDIX M	JUDGES' ROOM NUMBERS AND ZIP CODE + 4-DIGIT EXTENSION NUMBERS
APPENDIX N	SUMMONS IN A CIVIL ACTION
APPENDIX O	WRIT OF EXECUTION
APPENDIX P	APPELLATE TRANSCRIPT PURCHASE ORDER
APPENDIX Q	CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE
APPENDIX R	BILL OF COSTS

APPENDIX S	SPECIAL LISTING AGREEMENT
APPENDIX T	BUSY SLIP
APPENDIX U	STANDING ORDER RE: SENTENCING REFORM ACT OF 1984
APPENDIX V	CREDIT CARD COLLECTION NETWORK AUTHORIZATION FORM
APPENDIX W	BAIL BOND SECURED BY PROPERTY OR REAL ESTATE BOND
APPENDIX X	ATTORNEY ADMISSIONS APPLICATION
APPENDIX Y	TRANSCRIPT ORDER
APPENDIX Z	TAPE ORDER
APPENDIX AA	PACER - PUBLIC ACCESS TO COURT ELECTRONIC RECORDS REGISTRATION FORM
APPENDIX BB	DIRECTORY OF COURT-AUTOMATED SERVICES

INDEX

- After-Hours Contact for Emergency Matters, 61
- After-Hours Filing Depository, 62
- Amended Complaint (Filing an), 12
- Appeals, 29
- Appendices (List of), 85
- Arbitration, 6, 27
- Attachments for Trial, 57
- Attorney Admissions, 68

- Bail Bonds, 67
- Busy Slips, 57

- Case Management Track Designation Form, 11
- Case Number (How to Find a), 63
- Cell Phones, 75
- Central Violations Bureau (CVB), 67
- Certificate of Service, 15
- Certification of Judgment (AO 451), 31
- Civil Action (Procedure for Filing), 3
- Civil Cover Sheet, 6
- Civil Justice Expense and Delay Reduction Plan, 4
- Class Action Complaints, 12
- Clerk's Index File by Nature of Suit, 63
- Complaint,
 - Amended, 12
 - Class Action, 12
 - Copies of, 12
 - Filing, 3
 - Third-Party, 16
- Copies (Number of), 12, 15
- Copywork, 63
- Continuances, 57
- Court Reporting/Recording Services, 69
- Courtroom Deputy Clerks, 52, 60
- Courtrooms of the Future, 70
- Credit Card Collection Network, 64

- Default Judgment, 26
- Demand for Trial De Novo, 29
- Depositing/Withdrawing Monies, 65
- Designation Form, 4
- Directory,
 - Personnel, Office of the Clerk of Court, 78
 - Public Telephone Locations, 76
- Disclosure Statement, 5
- Discovery, 25
- Documents, 13

- ECF (Electronic Case Filing), 1
- ECF Registration, 2

- ECF Training, 3
- Electronic Case Filing (ECF), 1
- Electronic Sound Recording, 69
- Excuse from Jury Service on Request, 71
- Exhibits, 58

- Facsimile Transmission of Notices of Orders and Judgments, 2, 18
- False Claims Act Cases, 17
- Fees,
 - Civil Action, 4
 - Miscellaneous Case, 24
 - Notice of Appeal, 31
 - Federal Records Center, 62, 64
 - Foreign Subpoenas, 24
- File Room, SEE RECORDS ROOM
- Filing,
 - Amended Complaint, 12
 - Civil Action, 3
 - Default, 26
 - Subpoenas, 22
- Fines, 66
- Foreign Subpoenas, 24

- Inclement Weather, 72
- Index to Civil Actions by Subject, 63
- Internet Website, 74
- Interpreters' Services, 70

- Judgment by Default, 26
- Judicial Opinions, 62
- Jurisdiction, 7, 21
- Jury Selection, 71
- Jury Service (Term of), 71
- JUST-ASK** (Judicial Schedule of Trials - Automated System Inquiry), 56

- Kiosk, 56

- Lobby Kiosk Information System, 56
- Local Rules, 75
- Locate a Case Number, 63

- Mail, 19
- MDL (Multidistrict Litigation), 26
- Motions, 20, 57
- Multidistrict Litigation (MDL), 26

- Opinions/Correspondence, 62

- PACER** - Public Access to Court Electronic

Records, 72
Patent,
 "Little Tucker Act" Cases, 30
.pdf (Portable Document Format), 2
Personal Identifiers, Excluded, 16
Pleadings, 13, 17
Portable Document Format (.pdf), 2
Post Judgment Interest Rate, 33
Pretrial Practices, 53

Records Room, 64
Referral to U.S. Magistrate Judge, 32
Registry Fund, Deposit Fund, Interest-Bearing
 Accounts, 65
Related Cases, 5, 10

Sealed Pleadings, 16
Sentencing Reform Act of 1984, 61
Service of Process, 13
Social Security (Explanatory Information), 9
Special Listing, 54
Special Management Case, 11
Subpoenas, 22
 Foreign, 24
Summons, 21

Taxation of Costs, 33
Telephone (Public, Directory of Locations), 75
Temporary Restraining Order (T.R.O.), 25
Third-Party Complaint, 16
Trial De Novo Demand, 29
Trial List (Publication of), 54, 56
T.R.O. (Temporary Restraining Order), 25

Verifications, 12
Video Conferencing, 69
Videotape Services, 69

Waiver of Service, 13
Weather (Inclement), 72
Website, 74
Writs of Garnishment, Attachment and
Execution, 25